

MONTANA LEGISLATIVE HISTORY

Chapter 552 19 97

Bill H 374 S _____

Original bill & history ✓ c

H. Committee on Judiciary

Hearing Date(s) 2/20 ✓ c

_____ c

_____ c

_____ c

Date Out _____ c

S. Committee on Judiciary

Hearing Date(s) 4/9 ✓ c

4/15 ✓ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes ✓ No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

PROGRAM AND TO DEVELOP RECOMMENDATIONS FOR ALLOCATION OF APPROPRIATIONS AMONG JUDICIAL DISTRICTS; AMENDING SECTIONS 7-6-501, 20-5-321, 20-7-422, 23-5-158, 41-3-205, 41-3-1101, 41-3-1102, 41-3-1103, 41-3-1104, 41-3-1114, 41-3-1122, 41-3-1132, 41-5-103, 41-5-201, 41-5-203, 41-5-204, 41-5-205, 41-5-206, 41-5-208, 41-5-301, 41-5-303, 41-5-304, 41-5-305, 41-5-306, 41-5-401, 41-5-403, 41-5-501, 41-5-511, 41-5-515, 41-5-521, 41-5-522, 41-5-523, 41-5-524, 41-5-525, 41-5-530, 41-5-533, 41-5-603, 41-5-605, 41-5-703, 41-5-802, 41-5-1004, 41-5-1008, 41-5-1104, 41-5-1105, 45-5-624, 45-5-637, 46-18-256, 46-24-207, 52-2-211, 52-5-101, 52-5-102, 52-5-103, 52-5-107, 52-5-111, 52-5-113, 52-5-126, 52-5-127, 52-5-128, 52-5-129, 53-1-201, 53-1-203, AND 53-21-506, MCA; REPEALING SECTION 41-5-310, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.	3283
551 (<i>House Bill No. 2; Zook</i>) AN ACT APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE BIENNIUM ENDING JUNE 30, 1999; AND PROVIDING AN EFFECTIVE DATE.	3349
552 (<i>Senate Bill No. 374; Hargrove</i>) AN ACT IMPLEMENTING THE CHILD SUPPORT PROVISIONS OF THE FEDERAL PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; CREATING AN ADVISORY BOARD TO ADVISE THE DEPARTMENT; INSTITUTING AUTOMATED, MASS CASE PROCESSING TECHNIQUES FOR CHILD SUPPORT, INCLUDING A CENTRAL CASE REGISTRY, A CENTRALIZED UNIT FOR TRACKING AND DISBURSING CHILD SUPPORT COLLECTIONS, AND A DIRECTORY OF NEW HIRES; RESTRUCTURING EXISTING CHILD SUPPORT PROCEDURES BY INCLUDING REVISED INCOME-WITHOLDING PROCEDURES, REVISED PATERNITY ESTABLISHMENT PROCESSES, AVAILABILITY OF SOCIAL SECURITY NUMBERS, EXPANDED ACCESS TO PUBLIC AND PRIVATE SOURCES OF INFORMATION FOR LOCATE PURPOSES, AVAILABILITY OF OTHER AUTOMATED LOCATE SOURCES, WORK REQUIREMENTS FOR PARENTS OWING SUPPORT, ENHANCED INTERSTATE ENFORCEMENT PROCEDURES INVOLVING INTERSTATE LIENS AND SUBPOENAS, AND EXPANDED LICENSE SUSPENSION PROCEDURES TO INCLUDE RECREATIONAL LICENSES; PROVIDING THAT ADMINISTRATIVE ORDERS HAVE FULL FORCE AND EFFECT WITHOUT FILING THEM WITH THE DISTRICT COURT; REVISING ADMINISTRATIVE REGISTRATION PROCEDURES; GENERALLY REVISING THE UNIFORM INTERSTATE FAMILY SUPPORT ACT TO MAKE CHANGES REQUIRED BY THE FEDERAL ACT; AMENDING SECTIONS 19-2-1004, 19-18-612, 19-19-504, 19-20-706, 19-21-212, 25-13-608, 37-1-307, 40-1-107, 40-4-105, 40-4-204, 40-4-206, 40-5-103, 40-5-149, 40-5-151, 40-5-161, 40-5-162, 40-5-163, 40-5-164, 40-5-173, 40-5-188, 40-5-189, 40-5-194, 40-5-195, 40-5-196, 40-5-201, 40-5-203, 40-5-206, 40-5-210, 40-5-225, 40-5-226, 40-5-227, 40-5-232, 40-5-233, 40-5-235, 40-5-236, 40-5-237, 40-5-263, 40-5-264, 40-5-271, 40-5-273, 40-5-274, 40-5-302, 40-5-303, 40-5-304, 40-5-305, 40-5-306, 40-5-307, 40-5-308, 40-5-309, 40-5-310, 40-5-312, 40-5-313, 40-5-314, 40-5-315, 40-5-403, 40-5-404, 40-5-412, 40-5-413, 40-5-414, 40-5-421, 40-5-423, 40-5-443, 40-5-701, 40-5-702, 40-5-703, 40-5-704, 40-5-709, 40-5-710, 40-5-711, 40-6-102, 40-6-105, 40-6-111, 40-6-115, 40-6-116, 40-6-117, 50-15-210, 50-15-223, 50-15-403, 53-2-613, 61-5-107, 87-1-102, AND 87-1-108, MCA; AND PROVIDING EFFECTIVE DATES, CONTINGENT TERMINATION DATES, AND A TERMINATION DATE.	3418

	RETURNED TO SENATE WITH AMENDMENTS		
4/17	2ND READING AMENDMENTS CONCURRED	48	1
4/18	3RD READING CONCURRED AS AMENDED	47	2
4/21	SIGNED BY PRESIDENT		
4/21	SIGNED BY SPEAKER		
4/21	TRANSMITTED TO GOVERNOR		
4/28	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 414		
	EFFECTIVE DATE: 01/01/98		

SB 373 INTRODUCED BY HERTEL, ET AL. *LC1211 DRAFTER: MARTIN*

REVISE THE DEFINITION OF "RECEIPTS RECEIVED" TO INCLUDE
TRANSPORTATION COSTS AS A DEDUCTION FROM THE GROSS
PROCEEDS TAX ON METAL MINES

2/17	INTRODUCED
2/17	FIRST READING
2/17	REFERRED TO TAXATION
2/17	FISCAL NOTE REQUESTED
2/21	FISCAL NOTE RECEIVED
2/22	FISCAL NOTE PRINTED
3/10	HEARING
3/18	TABLED IN COMMITTEE
4/05	MISSED DEADLINE FOR 71ST DAY TRANSMITTAL
	DIED IN COMMITTEE

SB 374 INTRODUCED BY HARGROVE *LC1007 DRAFTER: MACMASTER*

IMPLEMENT THE CHILD SUPPORT PROVISIONS OF THE FEDERAL
PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY
RECONCILIATION ACT OF 1996

2/17	INTRODUCED		
2/17	FIRST READING		
2/17	REFERRED TO JUDICIARY		
2/17	FISCAL NOTE REQUESTED		
2/20	HEARING		
2/20	FISCAL NOTE RECEIVED		
2/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/25	REFERRED TO FINANCE & CLAIMS		
3/03	MISSED DEADLINE FOR 45TH DAY TRANSMITTAL		
3/06	HEARING		
3/14	HEARING		
3/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/28	2ND READING PASSED	25	21
4/02	3RD READING PASSED	25	24
	TRANSMITTED TO HOUSE		
4/03	FIRST READING		
4/03	REFERRED TO JUDICIARY		
4/09	HEARING		
4/15	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/16	2ND READING NOT CONCUR AS AMENDED	36	64
4/16	RECONSIDERED PREVIOUS ACTION	54	41
4/16	2ND READING CONCURRED AS AMENDED	56	44
4/17	3RD READING CONCURRED	50	47
	RETURNED TO SENATE WITH AMENDMENTS		
4/18	MOTION CARRIED TO ALLOW BILL TO BE PLACED ON 2ND READING FOR CONSIDERATION OF HOUSE AMENDMENTS		
4/18	2ND READING AMENDMENTS NOT CONCURRED	30	18
4/18	FREE CONFERENCE COMMITTEE APPOINTED		

4/18	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/18	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	25	21
4/19	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	26	23
4/21	FREE CONFERENCE COMMITTEE DISSOLVED		
4/21	FREE CONFERENCE COMMITTEE APPOINTED		
4/22	FREE CONFERENCE COMMITTEE REPORT NO. 2		
4/22	ON MOTION RULES SUSPENDED TO PLACE ON 2ND READING THIS DAY		
4/22	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 2 ADOPTED	34	14
4/23	HEARING		
4/23	RECONSIDERED PREVIOUS ACTION TO ADOPT FREE CONFERENCE COMMITTEE REPORT NO. 2 ON 2ND READING	48	0
4/23	FREE CONFERENCE COMMITTEE REPORT NO. 3		
4/23	ON MOTION RULES SUSPENDED TO PLACE FREE CONFERENCE COMMITTEE REPORT NO. 3 ON 2ND READING THIS DAY		
4/23	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 3 ADOPTED	34	14
4/23	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 3 ADOPTED	33	17
	HOUSE		
4/18	FREE CONFERENCE COMMITTEE APPOINTED		
4/18	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/21	MOTION TO ADOPT FREE CONFERENCE COMMITTEE REPORT NO. 1 ON 2ND READING FAILED	35	65
4/21	FREE CONFERENCE COMMITTEE DISSOLVED		
4/21	FREE CONFERENCE COMMITTEE APPOINTED		
4/22	FREE CONFERENCE COMMITTEE REPORT NO. 2		
4/22	MOTION TO ADOPT FREE CONFERENCE COMMITTEE REPORT NO. 2 ON 2ND READING FAILED	35	65
4/23	RECONSIDERED PREVIOUS ACTION AND PLACED BACK ON 2ND READING	59	40
4/23	FREE CONFERENCE COMMITTEE REPORT NO. 3		
4/23	MOTION TO ADOPT FREE CONFERENCE COMMITTEE REPORT NO. 3 ON 2ND READING FAILED	49	51
4/23	RECONSIDERED PREVIOUS ACTION	57	43
4/23	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 3 ADOPTED	57	43
4/23	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 3 ADOPTED	56	43
4/30	SIGNED BY SPEAKER		
5/02	SIGNED BY PRESIDENT		
5/02	TRANSMITTED TO GOVERNOR		
5/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 552		
	EFFECTIVE DATE: 07/01/97—SECTIONS 11, 12 & 14-104		
	EFFECTIVE DATE: 10/01/97—SECTIONS 1, 9, 10 & 13		
	EFFECTIVE DATE: 10/01/98—SECTIONS 2-8		

SB 375 INTRODUCED BY THOMAS LC0526 DRAFTER: MCCLURE
REVISE THE ASSESSMENT PROCEDURES FOR THE WORKERS' COMPENSATION SUBSEQUENT INJURY FUND

2/17 INTRODUCED
2/17 REFERRED TO LABOR & EMPLOYMENT RELATIONS
2/17 FIRST READING
2/17 FISCAL NOTE REQUESTED

Senate Bill No. 374

Introduced By hargrove

A Bill for an Act entitled: "An Act IMPLEMENTING THE CHILD SUPPORT PROVISIONS OF THE FEDERAL PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; CREATING AN ADVISORY BOARD TO ADVISE THE DEPARTMENT; INSTITUTING AUTOMATED, MASS CASE PROCESSING TECHNIQUES FOR CHILD SUPPORT, INCLUDING A CENTRAL CASE REGISTRY, A CENTRALIZED UNIT FOR TRACKING AND DISBURSING CHILD SUPPORT COLLECTIONS, AND A DIRECTORY OF NEW HIRES; RESTRUCTURING EXISTING CHILD SUPPORT PROCEDURES by including REVISED INCOME-WITHHOLDING PROCEDURES, REVISED PATERNITY ESTABLISHMENT PROCESSES, AVAILABILITY OF SOCIAL SECURITY NUMBERS, EXPANDED ACCESS TO PUBLIC AND PRIVATE SOURCES OF INFORMATION FOR LOCATE PURPOSES, AVAILABILITY OF OTHER AUTOMATED LOCATE SOURCES, WORK REQUIREMENTS FOR PARENTS OWING SUPPORT, ENHANCED INTERSTATE ENFORCEMENT PROCEDURES INVOLVING INTERSTATE LIENS AND SUBPOENAS, AND EXPANDED LICENSE SUSPENSION PROCEDURES TO INCLUDE RECREATIONAL LICENSES; PROVIDING THAT ADMINISTRATIVE ORDERS HAVE FULL FORCE AND EFFECT WITHOUT FILING THEM WITH THE DISTRICT COURT; REVISING ADMINISTRATIVE REGISTRATION PROCEDURES; GENERALLY REVISING THE UNIFORM INTERSTATE FAMILY SUPPORT ACT TO MAKE CHANGES REQUIRED BY THE FEDERAL ACT; amending sections 19-2-1004, 19-18-612, 19-19-504, 19-20-706, 19-21-212, 25-13-608, 37-1-307, 40-1-107, 40-4-105, 40-4-204, 40-4-206, 40-5-103, 40-5-149, 40-5-151, 40-5-158, 40-5-161, 40-5-162, 40-5-163, 40-5-164, 40-5-173, 40-5-186, 40-5-188, 40-5-189, 40-5-194, 40-5-195, 40-5-196, 40-5-201, 40-5-203, 40-5-206, 40-5-210, 40-5-225, 40-5-226, 40-5-227, 40-5-232, 40-5-233, 40-5-235, 40-5-236, 40-5-237, 40-5-263, 40-5-264, 40-5-271, 40-5-274, 40-5-302, 40-5-303, 40-5-304, 40-5-305, 40-5-306, 40-5-307, 40-5-308, 40-5-309, 40-5-310, 40-5-312, 40-5-313, 40-5-314, 40-5-315, 40-5-403, 40-5-404, 40-5-412, 40-5-413, 40-5-414, 40-5-421, 40-5-423, 40-5-443, 40-5-701, 40-5-702, 40-5-703, 40-5-704, 40-5-709, 40-5-710, 40-5-711, 40-6-102, 40-6-105, 40-6-111, 40-6-115, 40-6-116, 40-6-117, 50-15-210, 50-15-223, 50-15-403, 53-2-613, 61-5-107, 87-1-102, AND 87-1-108, ~~87-2-106, and 87-2-202~~; MCA; and providing effective dates and a retroactive applicability date."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 2] grants the department of public health and human services authority to adopt rules to implement [sections 1 through 11, 12, 13, 14, AND 15]. The rules should ~~at a minimum~~ address:

- (1) routine procedural and operational matters ~~not provided for in [sections 1 through 11]~~; and
- (2) supplementary information necessary for the efficient and effective operation of the child support information and processing unit. The department should weigh the need for the information against the personal intrusiveness of the requested information and the difficulty of obtaining the information AND SHOULD ADOPT RULES THAT MINIMIZE THE PERSONAL INTRUSIVENESS OF THE REQUESTED INFORMATION AND THAT MINIMIZE THE COSTS TO THE DEPARTMENT,

EMPLOYERS, AND EMPLOYEES IN RESPONSE TO ANY DIFFICULTIES IN OBTAINING THE INFORMATION.

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 11], unless the context requires otherwise, the following definitions apply:

- (1) "Date of hire" means the first day that an employee starts work for which the employee is owed compensation by the payor of income.
- (2) "Department" means the department of public health and human services provided for in 2-15-2201.
- (3) (a) "Employee" means a person 18 years of age or older who performs labor in this state for an employer in this state for compensation and for whom the employer withholds federal or state tax liabilities from the employee's compensation.
- (b) The term does not include an employee of a federal or state agency performing intelligence or counterintelligence functions if the head of the agency has determined that reporting pursuant to [section 9] with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.
- (4) "Employer" means a person, firm, corporation, association, governmental entity, or labor organization that engages an employee for compensation and withholds federal or state tax liabilities from the employee's compensation.
- (5) "Foreign support order" means a support order entered or last modified by a court or administrative agency of another state, the District of Columbia, the Commonwealth of Puerto Rico, a territory or insular possession subject to the jurisdiction of the United States, an Indian tribe, or a foreign jurisdiction.
- (6) "Income withholding" generally means procedures for directing a payor to withhold from an obligor's income an amount sufficient to pay the obligor's support obligation and to defray arrears that are or may become due. Specifically:
 - (a) when preceded by "IV-D", income withholding means the procedures set out in Title 40, chapter 5, part 4; and
 - (b) when preceded by "non IV-D", income withholding means those cases in which an immediate income-withholding order is issued under 40-5-315 after January 1, 1994.
- (7) "Interstate case" means a case referred to the department by, or from the department to, another IV-D agency.
- (8) "Labor organization" means a labor union, union local, union affiliate, or union hiring hall.

(9) "Obligee" means the payee under a support order or a person or agency entitled to receive support payments.

(10) "Obligor" means a person who is obligated to pay support under a support order.

(11) "Payor" means:

(a) an employer or person engaged in a trade or business in this state who engages an employee for compensation; or

(b) when used in context with income withholding, means a person, firm, corporation, association, employer, trustee, political subdivision, state agency, or agent paying income to an obligor on a periodic basis.

(12) "Rehire" means the first day, following a termination of employment, that an employee begins to again perform work or provide services for a payor. Termination of employment does not include temporary separations from employment, such as unpaid medical leave, an unpaid leave of absence, or a temporary or seasonal layoff.

(13) "Support order" means a judgment, decree, or order, whether temporary or final, that:

(a) is for the benefit of a child or a state agency;

(b) provides for monetary support, health care, arrearages, or reimbursement;

(c) may include related costs and fees, interest, and similar other relief; and

(d) may include an order for maintenance to be paid to a former spouse when the former spouse is the custodial parent of a child for whom child support is awarded ~~under the same judgment decree or order.~~

(14) "IV-D" or "IV-D case" means a case in which the department is providing services under the provisions of Title IV-D of the Social Security Act and the regulations promulgated under that act. A IV-D case also includes a case in which the department is collecting a support debt assigned to this or another state under Title IV-D.

NEW SECTION. Section 2. Child support information and processing unit. (1) The department shall establish and maintain a centralized child support case registry and payment processing unit. The purpose of this unit is to facilitate mass case processing by utilizing computer technology to identify parents and their income and to initiate automated procedures to collect child support as it becomes due and payable.

(2) The case registry must include a data base of information concerning child support orders, all cases receiving IV-D services, and all district court and administrative cases with support orders entered or modified after October 1, 1998.

(3) The case registry must use automated systems to obtain information from federal, state, and local data bases with regard to the location of obligors and their income and assets. ~~Upon request, this~~ **THIS** information ~~may~~ **MUST** be shared with the courts OF THIS STATE and, **UPON REQUEST, MAY BE**

SHARED WITH child support enforcement agencies of this and other states for the purpose of establishing paternity and establishing and enforcing child support obligations.

(4) To assist creditors, credit managers, and others who need timely verification of the existence of child support liens in IV-D cases, the case registry must include a directory of liens, which must include liens against an obligor's real and personal property filed by the department with other agencies and lien registries. Information in the lien registry may be made available through automated systems, which may include voice response units.

(5) Each IV-D case with a child support order must be electronically monitored so that when a timely payment of support is not made, enforcement action may be taken. To accomplish this purpose, payments due under a child support order must be paid to the department for processing and disbursement.

(6) In either a IV-D income-withholding case in this state or a state non IV-D case, if immediate income withholding is authorized after January 1, 1994, an employer or other payor of income shall pay all support withheld from an obligor's income to one centralized location as specified by the department.

(7) To facilitate automated disbursement of support payments, automated enforcement actions, and service of notice when required, an obligor or obligee must be directed to provide, and update as necessary, information sufficient to locate the obligor and obligee and to locate the obligor's income and assets.

(8) An employer or labor organization shall report a newly hired or returning employee. Information reported by an employer must be electronically compared to the information data base to align an obligor who owes a duty of support with a source of income. When a match is revealed in a IV-D case, a notice will, if appropriate to the case, be promptly transmitted to the employer directing the employer to commence withholding for the payment of the obligor's support obligation.

(9) The department may enter into contracts or cooperative agreements with any person, business, firm, corporation, or state agency to establish, operate, or maintain the case registry and payment processing unit or any function or service afforded by the unit, provided that:

(a) the department is ultimately responsible for operation of the case registry and payment processing unit, including any function or service afforded by the unit; ~~and~~

(B) THERE IS A BOARD TO ACT IN AN ADVISORY CAPACITY TO THE CASE REGISTRY AND PROCESSING UNIT. THE BOARD SHALL ADVISE THE DEPARTMENT IN THE POLICY, DIRECTION, CONTROL, AND MANAGEMENT OF THE CASE REGISTRY AND PROCESSING UNIT AND IN DETERMINING FORMS, DATA PROCESSING NEEDS, TERMS OF CONTRACTS AND COOPERATIVE AGREEMENTS, AND OTHER SIMILAR TECHNICAL REQUIREMENTS. BOARD MEMBERS WHO ARE NOT EMPLOYED BY THE DEPARTMENT SHALL SERVE WITHOUT PAY, BUT ARE ENTITLED TO REIMBURSEMENT FOR TRAVEL, MEALS, AND LODGING WHILE ENGAGED IN BOARD BUSINESS, AS PROVIDED IN 2-18-501 THROUGH 2-18-503. EXCEPT FOR MEMBERS WHO REPRESENT THE DEPARTMENT, APPOINTED BOARD MEMBERS SHALL SERVE FOR A TERM OF 2 YEARS. THE BOARD CONSISTS OF FIVE MEMBERS AS FOLLOWS:

(I) A DISTRICT COURT JUDGE NOMINATED BY THE DISTRICT COURT JUDGES' ASSOCIATION;

(II) A CLERK OF COURT NOMINATED BY THE ASSOCIATION OF CLERKS OF THE DISTRICT COURTS;

(III) THE SUPREME COURT ADMINISTRATOR OR DESIGNEE;

(IV) TWO MEMBERS, APPOINTED BY THE DEPARTMENT DIRECTOR, ONE FROM THE CHILD SUPPORT ENFORCEMENT DIVISION AND ONE FROM THE OPERATIONS AND TECHNOLOGY DIVISION; AND

(V) A REPRESENTATIVE OF A COUNTY DATA PROCESSING UNIT, NOMINATED BY THE ASSOCIATION OF CLERKS OF THE DISTRICT COURTS; AND

~~(b)~~(C) the costs charged to the department under the contract or cooperative agreement may not exceed the actual costs that the department would have incurred without the contract or cooperative agreement.

(10) The department may adopt rules to implement [sections 1 through 11, 12, 13, 14, AND 15].
RULES MUST BE DRAFTED, ADOPTED, AND APPLIED IN A MANNER THAT:

(A) MINIMIZES THE PERSONAL INTRUSIVENESS ON THE EMPLOYER OR EMPLOYEE OF ANY REQUESTED INFORMATION;

(B) MINIMIZES THE COSTS TO THE DEPARTMENT AND ANY EMPLOYER OR EMPLOYEE WITH RESPECT TO OBTAINING AND SUBMITTING ANY REQUESTED INFORMATION; AND

(C) ADEQUATELY PROVIDES FOR THE CONFIDENTIALITY AND SECURITY OF ANY EMPLOYER OR EMPLOYEE INFORMATION THAT THE DEPARTMENT GATHERS UNDER [SECTIONS 1 THROUGH 11, 12, 13, 14, AND 15].

NEW SECTION. Section 3. Case registry -- abstracts -- information required -- mandatory updating. (1) There must be registered in the case registry an abstract of:

(a) each case, including interstate cases, receiving IV-D services provided by the department;

(b) each support order entered and each modification of an existing support order made in this state after October 1, 1998; and

(c) each subsequent order or action establishing, modifying, adjusting, granting relief from, terminating, or otherwise affecting a support order in a registered case.

(2) Each abstract must include:

(a) the name, sex, social security number, other identification numbers, if any, date of birth, driver's license number, telephone number, and residential and mailing addresses of the parents;

(b) the child's name, date of birth, sex, social security number, if any, and residential address if different from that of the child's custodian;

(c) the name and location of the obligee if the obligee is a person or agency other than the child's parent;

(d) the name, address, and telephone number of the obligor's employer or of another payor of income to the obligor;

(e) if the child is covered by a health or medical insurance plan, the name of the insurance carrier or health benefit plan, the policy identification number, the name of the persons covered, and any other pertinent information regarding coverage, or if the child is not covered, information as to the availability of coverage for the child through the obligor's and obligee's employers; and

(f) any other information that the department considers relevant and requires by rule.

(3) The abstract of a support order must include:

(a) the amount of the support payment and supplemental support payments, if any, for each child and the amount of spousal maintenance if ordered in the same case;

(b) the specific day or dates the payment is due;

(c) the inclusive dates of the support obligation;

(d) the terms of any condition that may affect the amount of the payment, the due date, or the obligation to pay support;

(e) each subsequent judgment for support arrears and the amounts of any interest, late payment penalties, and fees included in the judgment;

(f) any specific child support lien imposed against real or personal property of the obligor;

(g) the terms of any medical and health coverage provision for the child; and

(h) the name and county of the judicial district or the name and address of the agency where the record of the case is located and the cause number or case identification number for the case.

(4) (a) For each IV-D case with a support order registered in the case registry, there must be a record of the date and the amount of support payments made by the obligor, dates and amounts of support collected from other sources, dates of distribution of support payments, names and locations of persons or agencies to whom support payments and collections were distributed, and the balance of support owed by the obligor.

(b) Except as provided in subsection (5), the department need not maintain payment records in a non IV-D case.

(5) A copy of each non IV-D income-withholding order must be included in the case registry. For each registered income-withholding order, there must be a record of payments received by the department from the payor under the income-withholding order, the date and amount of each payment, the date the department distributed the payment, and the person or agency to whom the payment was distributed.

(6) The statistical report required by the department under 50-15-302 may be combined with and made a part of the abstract of support order form.

(7) (a) Each support order entered or modified in this state after October 1, 1998, must include a

requirement that the obligor and obligee update, as necessary, the information included in the abstract under subsection (2).

(b) The order must also provide that in a subsequent child support enforcement action, upon sufficient showing that diligent effort has been made to ascertain the location of the obligor or obligee, the court or agency taking the enforcement action may consider the due process requirements for notice and service of process to be met with respect to the party upon delivery of written notice by regular mail to the most recent address or employer address reported to the case registry.

(c) If the support order does not include the provisions required by subsections (7)(a) and (7)(b) or if the support order was entered or last modified in this state before October 1, 1998, the department may give written notice of the provisions to the obligor and obligee. Upon receipt of the notice, the provisions have the same force and effect on the obligor and obligee as if included in the support order.

NEW SECTION. Section 4. Registration procedures. (1) In a court case, before a decree, judgment, or order may be docketed, the parties to the action or their attorneys shall prepare, on a form prescribed by the department, the abstract of a support order required under [section 3(3)] and deliver it to the clerk of court whenever:

(a) a support order is entered or an existing order is modified after October 1, 1998;

(b) in an existing case not included under subsection (1)(a), the department has filed a notice of IV-D services and a support order is established, modified, adjusted, terminated, or otherwise affected or relief is granted from the support order; and

(c) in each case with a previously registered abstract, there is an action subsequent to registration that establishes, modifies, adjusts, terminates, grants relief from, or otherwise affects the support order in a registered case.

(2) The clerk of court shall deliver a completed abstract and copy of a non IV-D income-withholding order to the department within 5 working days of the receipt of an abstract or issuance of the non IV-D income-withholding order.

(3) (a) The department shall prepare and register abstracts of administrative support orders established by the department.

(b) For a foreign support order involving IV-D services from the department, the department shall attempt to acquire the information necessary for completion of the abstract from the person, court, or agency requesting IV-D services, and to the extent the information is provided, the department shall enter the information into the registry.

(4) As an alternative to the preparation and delivery of abstracts and non IV-D income-withholding orders to the department, the department may enter into cooperative agreements with district courts, clerks of court, or other appropriate agencies of this and other states to gather and transmit the information through electronic information networking systems.

NEW SECTION. Section 5. Centralized payment center -- mandatory payments to center. (1)

Payments due under a support order must be paid through the department for processing and distribution to the person or agency entitled to receive the payment whenever:

- (a) the case is receiving IV-D services; or
 - (b) the support obligation is payable through non IV-D income withholding.
- (2) A support order entered or modified in this state after October 1, 1998, that excludes the obligor from paying support through income withholding must provide that:
- (a) if the case is or later becomes a IV-D case or if support becomes payable through IV-D or non IV-D income withholding, support payments must be paid through the department; and
 - (b) a payment that is not made to the department does not constitute payment of support or credit toward satisfaction of the support obligation.
- (3) (a) If a support order does not include the provisions required by subsection (2) or directs payment of support to a payee other than the department, the department may give written notice to the obligor and obligee directing or redirecting payments to the department. After receipt of the notice, payment other than as directed does not constitute payment of support or credit toward satisfaction of the support obligation.
- (b) An obligor who redirects payments to the department is not liable to the obligee or answerable to the court for not making payments as directed by the court.
- (c) While support is required to be paid through the department, the notice directing or redirecting payments to the department may not be superseded by any subsequent order of a court or agency directing the obligor to make payments other than to the department.
- (4) After the obligor has been ordered or directed to make payments to the department under this section, the obligor shall make the payments to the department and is not entitled to credit against a support obligation for payment made to a person or agency other than the department.
- (5) (a) When the obligor is paying support through IV-D or non IV-D income withholding, the income-withholding order must direct the payor to make the payments through the department.
- (b) If a payor is directed by the income-withholding order to make payments to a payee other than the department, the department may redirect the payments to the department by written order to the employer or payor. The order supersedes any prior, inconsistent court or agency order.
- (c) For as long as income withholding is appropriate to the case, the directive to the payor to make payments to the department may not be superseded by any subsequent order of a court or agency directing payments to any other payee.
- (6) Payments of support that are received by the department in interstate cases or as the result of a writ of execution, warrant for distraint, state and federal tax offset, or similar enforcement remedy must be processed through the case management and payment processing unit.
- (7) (a) If, through a private collection action, an obligee obtains a payment of support that must be

processed and distributed through the case management and payment processing unit, the obligee shall forward the payment to the department within 5 working days of the receipt of the payment.

(b) If the department takes an enforcement action against the obligor because the obligee failed to timely forward a payment of support under subsection (7)(a), the obligee is liable in a civil action to the obligor for the amount that should have been forwarded to the department.

(8) (a) Payments made to the department under this section must be by cash, personal or business check, money order, automatic bank account withdrawal, certified funds, electronic funds transfer services, or any other means acceptable to the department.

(b) Payments may not be credited to the obligor's child support obligation until actually received by the department.

(c) The withholding of income by a payor or employer under an order to withhold issued under Title 40, chapter 5, part 3 or 4, is not alone sufficient for credit against an obligor's support obligation. Payments withheld from an obligor's income that are not actually received by the department may not be credited to the obligor's child support obligation. The payor or employer is liable to the obligor in a civil action initiated by the obligor for the amount withheld but not paid to the department.

(d) A check presented to the department as payment, whether by the obligor, the obligor's employer, or another payor on the obligor's behalf, that is dishonored by the issuing bank may not be credited to the obligor's child support obligation.

(e) A payment made out to or delivered to any other person or agency other than to the department may not be credited to the obligor's support obligation.

(9) An uncredited payment under this section is considered as still owed by the obligor and may be collected using any remedy available under law.

NEW SECTION. Section 6. Distribution of payments. (1) Support payments processed through the case processing unit must be promptly disbursed unless one of the following circumstances or a similar circumstance prevents prompt distribution:

(a) the location of the obligee is unknown;

(b) the support debt is in litigation or, in an income-withholding case, the income-withholding action is contested; or

(c) the department receives a payment that does not include sufficient information to identify the case or the obligee.

(2) A disbursement must comply with department rules for distribution in IV-D cases.

(3) If the department is unable to make a distribution because the obligee's location is unknown, the department shall return the payment to the obligor.

(4) If a payment properly distributed under this section is later determined by a court or by department

decision to be refundable to the obligor for any reason, except for when the department is the obligee, the department need not pay the refund or recover the refunded amount from the obligee or from any person or agency to whom the amount was distributed.

(5) If the department distributes a support payment in error or if a distribution is made to a person, obligee, or agency not entitled to retain the distributed amount, the department may obtain restitution by means of a setoff against future payments, including arrears payments, received on behalf of the person, obligee, or agency. A setoff against future payments of current support is limited to 10% of the payment.

NEW SECTION. Section 7. Monitor payments -- enforcement. The department shall monitor all IV-D cases in the case registry and payment processing unit to promptly identify failures to make timely payment of support. If payment is not timely made, the department may:

- (1) determine why a timely payment was not received and take any action the department considers appropriate if there is an order to withhold income issued to a current payor;
- (2) promptly transmit an income-withholding order to the obligor's payor if the obligor is not currently subject to income withholding; or
- (3) promptly transmit an income-withholding order upon receipt of information identifying a payor if a payor was formerly unknown; and
- (4) take any additional enforcement action the department considers appropriate in all cases with an identified delinquency.

NEW SECTION. Section 8. Certification of records. (1) Copies, including optically scanned copies, of support payment records, abstracts, and any supporting documents maintained by the case registry and payment processing unit, when certified by a designated employee of the department, must, without further proof or foundation, be admitted into evidence in any legal proceedings.

(2) Support payment records for a case maintained in the case registry and payment processing unit constitute prima facie evidence of the amount of support paid and arrearages that have accrued since the department began to process and monitor support payments through the unit.

(3) Copies of judicial orders and other documents on file with a clerk of court, when transmitted to the department by the clerk by facsimile or other electronic means, are rebuttably presumed to be true and correct copies of the original documents and may be offered into evidence, without authentication or verification, in a department proceeding under [sections 1 through 11]. A person contesting the accuracy of the document may rebut the presumption with a certified copy of the original document.

NEW SECTION. Section 9. Directory of new hires -- employer reporting requirements -- penalties. (1) (a) An employer doing business in the state shall report to the department the hiring or rehiring of an employee to whom the employer anticipates paying income.

(b) An employer shall report the hiring or rehiring of an employee by submitting a copy of the employee's completed W-4 form or, AT THE OPTION OF THE EMPLOYER, its informational equivalent ~~as may be approved by the department~~ OR ANY OTHER FORMAT AGREED TO BY THE DEPARTMENT. The report must include the employee's name, date of hire, social security number, and residential and mailing addresses, and the name, address, and federal identification number of the employer. The report may include the employee's date of birth.

(c) If an employer provides health or medical insurance coverage for an employee and the coverage may be extended to the employee's children, the employer may, along with the date the employee becomes eligible for coverage, provide that information as part of the new hire report under subsection (1)(b).

(2) Transmission of the reports must be by first-class mail, electronic or magnetic transmission, including facsimile transmission, or any other format agreed to by the department. Written reports must be submitted within 20 days of the employee's date of hire or rehire. Reports transmitted electronically or magnetically may be made by two transmissions monthly, if necessary, not less than 12 or more than 16 days apart.

(3) An employer who has employees in two or more states and who transmits new hire reports electronically or magnetically may comply with this section by designating one of the states in which there is an employee and transmitting the report of new hires to that state. A multistate employer who elects to report to only one state shall give written notice of the state to which the employer will transmit new reports. As required by 42 U.S.C. 653a (b)(1)(B), this notice must be transmitted to the secretary of the federal department of health and human services.

(4) (a) An employer failing to report is subject to a civil penalty of up to ~~\$24~~ \$3 for each ~~day that~~ EMPLOYEE FOR WHOM the employer fails to provide the report.

(b) If the failure is the result of a conspiracy between the employer and the employee to not supply the report or to supply a false or incomplete report, the employer is subject to an additional penalty of ~~\$495~~ \$25 for each violation.

(c) An amount imposed as a penalty may be collected by any remedy available to the department for the enforcement of child support obligations.

(5) An employer providing reports is not liable to the employee ~~or contractor~~ for the disclosure or any subsequent use by the processing center of the information.

~~(6) An employer required to report under this section may charge each reported employee a fee not to exceed \$5 for each report to cover the cost of reporting. The fee may be withheld from payment of wages or other income to the employee.~~

NEW SECTION. Section 10. Information and records -- disclosure. ~~(1)~~ Information in the case registry and payment processing unit that contains the social security number, residential address, income sources, and employers of an obligee or obligor and the employee W-4 forms or similar forms transmitted to the department is private and confidential and may be disclosed only to:

~~(a)~~ (1) courts, tribunals, and administrative agencies in this and any ~~other~~ AGENCY OF ANOTHER state having ~~appropriate~~ jurisdiction over child support, custody, visitation, and welfare PURSUANT

~~TO 42 U.S.C. 651, ET SEQ., AND WITH CONFIDENTIALITY PROVISIONS EQUAL TO OR GREATER THAN THOSE PROVIDED BY THE DEPARTMENT;~~

~~(b)(2) public assistance and medicaid agencies and the revenue, workers' compensation, and employment security programs of this or any other state for the purpose of determining eligibility, continued eligibility, or fraud by programs operated by those agencies and programs;~~

~~(e)(3) the obligor or obligee who is the subject of the information;~~

~~(d)(4) the state vital statistics agency for the purposes of 50-15-302; and~~

(5) THE DEPARTMENT OF REVENUE.

~~(e) a person, agency, or entity if the release is consistent with 40-5-206 and also consistent with any allowable purpose under Title IV-D and other state and federal law pertaining to privacy safeguards and confidentiality of the information.~~

~~(2) All other information and records in the case registry and payment processing unit may be disclosed upon request of any person or agency, but a person or agency may not make use of the information or compile a list of obligee or obligor names for any commercial or political purpose.~~

NEW SECTION. Section 11. Automated access to financial records -- confidentiality -- no liability.

(1) For the purposes of this section, unless the context otherwise indicates, the following definitions apply:

(a) "Account" means a savings, checking, deposit and withdrawal, demand deposit, money market, profit and loss, or time deposit account opened by a depositor in a financial institution.

(b) "Depositor" means a person, share account holder, sole proprietor, or joint owner of an account in a financial institution in this state.

~~(c) "Financial institution" means a corporation incorporated to conduct the business of receiving money on deposit or transacting a trust or investment business, as referred to in 32-1-102, including a commercial bank as defined in 32-1-105, savings bank as defined in 32-1-106, trust company as defined in 32-1-107, and investment company as defined in 32-1-108. The term also means a building and loan association as defined in 32-2-101, credit union as defined in 32-3-102, Montana development corporation as referred to in 32-4-101, or consumer type loan business as defined in 32-5-102;~~

(I) A DEPOSITORY INSTITUTION, AS DEFINED IN SECTION 3(C) OF THE FEDERAL DEPOSIT INSURANCE ACT, 12 U.S.C. 1813(C);

(II) AN INSTITUTION-AFFILIATED PARTY, AS DEFINED IN THE FEDERAL DEPOSIT INSURANCE ACT, 12 U.S.C. 1813(U);

(III) ANY FEDERAL CREDIT UNION OR STATE CREDIT UNION, AS DEFINED IN SECTION 101 OF THE FEDERAL CREDIT UNION ACT, 12 U.S.C. 1752, INCLUDING AN INSTITUTION-AFFILIATED PARTY OF SUCH A CREDIT UNION, AS DEFINED IN SECTION 206(R) OF THE ACT, 12 U.S.C. 1786(R); AND

(IV) ANY BENEFIT ASSOCIATION, INSURANCE COMPANY, SAFE DEPOSIT COMPANY, MONEY MARKET MUTUAL FUND, OR SIMILAR ENTITY AUTHORIZED TO DO BUSINESS IN THE STATE.

(d) "Obligor" means a person who owes a debt for child, spousal, or medical support as determined by the department or as specified by order of a tribunal of competent jurisdiction, the amount of which exceeds \$500 or a total of 3 months debt, whichever is less.

(2) (a) Upon written request from the department, a financial institution shall run a data match of the department's list of obligors with the financial institution's depositors and provide the information in a computer OR OTHER REASONABLE format accessible by the financial institution. In the alternative, upon a showing by the financial institution of efficiency, the financial institution may provide the department with a list of the financial institution's depositors in a computer OR OTHER REASONABLE format accessible by the department for a data match to the department's list of obligors. The department may not request the information referred to in this subsection from a financial institution more than once in each calendar quarter.

(b) The information on an obligor found to be a depositor at a financial institution must include the obligor's full name, social security number, and account number. ~~If the information is normally kept by the financial institution, it must also include the mailing address, employment, and any other identifying information on the obligor.~~

(c) The financial institution shall provide the requested information within 30 days of the request from the department.

(3) The department shall run a computer match of all obligors with the information from the financial institution required in subsection (2) within 30 days. A match between an obligor and the information from the financial institution must be compiled by the department and returned to the financial institution for additional information, including, but not limited to:

(a) verification of the obligor's full name and social security number;

(b) the financial institution's account number;

(c) the nature of the account or accounts held by the obligor;

(d) the funds available in the account less any preexisting encumbrance held by the financial institution; and

(e) any taxes, penalties, interest, or other costs to be legally imposed on the account if the account is accessed prior to a maturity date.

(4) The amounts available in an obligor's account do not include amounts available pursuant to overdraft coverage offered by the financial institution.

(5) The financial institution shall honor a subsequent appropriate lien from the department sent to the financial institution.

(6) (a) A financial institution receiving a data request, data match, or lien from the department may not provide notice to an obligor identified in the information submitted to the department. Failure to provide

notice does not constitute a violation of the financial institution's duty of good faith to its customers.

(b) A notice given by a financial institution to an obligor identified by the department subjects the financial institution to the contempt authority of the department under 40-5-226.

(7) The department shall pay a financial institution a reasonable fee for providing the information required in subsection (2), not to exceed the actual documented costs incurred by the financial institution.

(8) Information requested by the department and provided by a financial institution under this section is confidential and may be used only for IV-D purposes. Use of information for any other purpose without the authorization of the department subjects the user to a civil penalty of not more than \$500 per name per use.

(9) A financial institution is not liable to a person for:

(a) a disclosure of information to the department under this section;

(b) encumbering or surrendering assets held by the financial institution in response to a notice of lien or levy issued by the department; or

(c) any other action UNDER THIS SECTION taken in good faith to comply with the requirements of this section AS LONG AS THE ACTION IS REASONABLE.

NEW SECTION. Section 12. Order to seek employment. (1) In a proceeding under this chapter to enforce a support order, if an obligor claims inability to pay support because of unemployment or underemployment, the department may order the obligor to seek suitable employment and make progress reports on that activity to the department unless the obligor proves by a preponderance of the evidence that:

(a) the obligor is engaged in diligent, bona fide efforts to seek suitable employment; or

(b) the obligor, due to illness, injury, or other incapacity, does not have the ability to seek employment or to engage in work if employment is offered to the obligor.

(2) The seek-work order must direct the obligor to:

(a) seek employment within a specified amount of time;

(b) file a weekly report with the department showing at least five new attempts by the obligor to find employment; and

(c) include in the report filed under subsection (2)(b) the name, address, and telephone number of the employers with whom the obligor sought employment and the name of the individuals the obligor contacted to inquire about or apply for employment.

(3) The order is effective for 6 months or until the obligor finds work, whichever occurs first.

(4) Failure to report or otherwise comply with a seek-work order, absent good cause, is evidence of willful nonpayment of child support for which the obligor may be determined to have committed the offense of nonsupport under 45-5-621 or may be held in civil contempt under Title 40, chapter 5, part 6. The department may enforce the order as provided in 40-5-226.

(5) For the purpose of this section, "suitable employment" is employment commensurate with the obligor's education, training, professional or occupational qualifications, job skills, work history, and the availability of employment opportunities in the community, or in the absence of commensurate employment AVAILABLE WITHIN A REASONABLE RANGE OF THE OBLIGOR'S AREA OF RESIDENCE, suitable employment is any employment that the obligor is capable of performing.

NEW SECTION. Section 13. Income-withholding orders of another state -- employer compliance - - employer immunity -- penalties for noncompliance. (1) An income-withholding order issued in another state may be sent to the person or entity defined as the obligor's employer under the income-withholding laws of this state without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

(2) ~~(a)~~(A) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

~~(b) The employer shall treat an income-withholding order issued in another state that appears regular on its face as if it had been issued by a tribunal of this state.~~

(B) THE EMPLOYER SHALL TREAT AN INCOME-WITHHOLDING ORDER ISSUED IN ANOTHER STATE THAT APPEARS REGULAR ON ITS FACE AS IF IT HAD BEEN ISSUED BY A TRIBUNAL OF THIS STATE. AN EMPLOYER MAY CONTACT THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO DETERMINE WHETHER THE WITHHOLDING ORDER WAS ISSUED BY THE APPROPRIATE AUTHORITY.

(3) Except as provided by subsections (4) and (5), the employer shall withhold and distribute the funds as directed in the income-withholding order by complying with the terms of the order that specify:

(a) the duration and the amount of periodic payments of current child support, stated as a sum certain;

(b) the person or agency designated to receive payments and the address to which the payments are to be forwarded;

(c) medical support, whether in the form of periodic cash payment, stated as a sum certain, or by ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(d) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(e) the amount of periodic payments of arrears and interest on arrears, stated as sums certain.

(4) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

- (a) the employer's fee for processing an income-withholding order;
 - (b) the maximum amount permitted to be withheld from the obligor's income; and
 - (c) the times within which the employer must implement the income-withholding order and forward the child support payment.
- (5) An obligor's employer who receives multiple income-withholding orders with respect to the earnings of the obligor satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.
- (6) An employer who complies with an income-withholding order issued in another state in accordance with this section is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.
- (7) An employer who willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.
- (8) (a) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state in the same manner as if the order had been issued by a tribunal of this state. Choice of law under 40-5-187 applies to the contest.
- (b) The obligor shall give notice of the contest to:
- (i) a support enforcement agency providing services to the obligee;
 - (ii) each employer that has directly received an income-withholding order; and
 - (iii) the person or agency designated to receive payments in the income-withholding order or, if a person or agency is not designated, to the obligee.

NEW SECTION. Section 14. Execution or withholding for support obligation. (1) Benefits in the retirement systems provided for in chapters 3, 5 through 9, 13, and 17 are subject to execution and income withholding for the payment of a participant's support obligation.

(2) For purposes of this section:

- (a) "Execution" means a warrant for distraint issued or a writ of execution obtained by the department of public health and human services when providing support enforcement services under Title IV-D of the Social Security Act.
- (b) "Income withholding" means an income-withholding order issued under the provisions of Title 40, chapter 5, part 3 or 4, or an income-withholding order issued in another state as provided in [section 13].
- (c) "Participant" means a member or an actual or potential beneficiary, survivor, or contingent annuitant of a retirement system designated pursuant to Title 19, chapter 3, 5, 6, 7, 8, 9, 13, or 17.

(d) "Support obligation" has the meaning provided in 40-5-403 for a support order.

(3) The execution or income-withholding order may not require:

(a) a type or form of benefit, option, or payment not available to the affected participant under the appropriate retirement system; or

(b) an amount or duration of payment greater than that available to a participant under the appropriate retirement system.

(4) The execution or income-withholding order may only provide for payment as follows:

(a) Service retirement benefit payments or withdrawals of member contributions may be apportioned by directing payment of a percentage of the amount payable or payment of a fixed amount of no more than the amount payable to the participant.

(b) The maximum amount of disability or survivorship benefits that may be apportioned and paid under this section is the monthly benefit amount that would have been payable on the date of termination of service if the member had retired without disability or death.

(c) Retirement benefit adjustments for which a participant is eligible after retirement may be apportioned only if existing benefit payments are apportioned. The adjustments must be apportioned in the same ratio as existing benefit payments.

(d) Payments must be limited to the life of the appropriate participant. The duration of payments under this section may be further limited only to a specified maximum time or the life of a specified participant. Payments may also be limited to a specific amount per month if the number of payments is specified.

NEW SECTION. Section 15. Execution or withholding for support obligation. (1) Benefits in the retirement system are subject to execution and income withholding for the payment of a participant's support obligation.

(2) For purposes of this section:

(a) "Execution" means a warrant for distraint issued or a writ of execution obtained by the department of public health and human services when providing support enforcement services under Title IV-D of the Social Security Act.

(b) "Income withholding" means an income-withholding order issued under the provisions of Title 40, chapter 5, part 3 or 4, or an income-withholding order issued in another state as provided in [section 13].

(c) "Participant" means a member or an actual or potential beneficiary, survivor, or contingent annuitant of a retirement system designated pursuant to this chapter.

(d) "Support obligation" has the meaning provided in 40-5-403 for support order.

(3) The execution or income-withholding order may not require:

- (a) a type or form of benefit, option, or payment not available to the affected participant under the retirement system; or
 - (b) an amount or duration of payment greater than that available to a participant under the retirement system.
- (4) The execution or income-withholding order may only provide for payment as follows:
- (a) Service retirement benefit payments or withdrawals of member contributions may be apportioned by directing payment of a percentage of the amount payable or payment of a fixed amount of no more than the amount payable to the participant.
 - (b) The maximum amount of disability or survivorship benefits that may be apportioned and paid under this section is the monthly benefit amount that would have been payable on the date of termination of service if the member had retired without disability or death.
 - (c) Retirement benefit adjustments for which a participant is eligible after retirement may be apportioned only if existing benefit payments are apportioned. The adjustments must be apportioned in the same ratio as existing benefit payments.
 - (d) Payments must be limited to the life of the appropriate participant. The duration of payments under this section may be further limited only to a specified maximum time or the life of a specified participant. Payments may also be limited to a specific amount per month if the number of payments is specified.

Section 16. Section 19-2-1004, MCA, is amended to read:

"19-2-1004. Exemption from taxes and legal process. Except as provided in 19-2-907 and [section 14], the right of a person to any benefit or payment from the retirement systems and the money in the pension trust funds is not:

- (1) subject to execution, garnishment, attachment, or any other process;
- (2) subject to state, county, or municipal taxes except for:
 - (a) a benefit or annuity received in excess of \$3,600 or adjusted by an amount determined pursuant to 15-30-111(2)(c)(ii); or
 - (b) a refund of a member's regular contributions picked up by an employer after June 30, 1985, as provided in 19-3-315, 19-5-402, 19-6-402, 19-7-403, 19-8-502, 19-9-710, or 19-13-601; or
- (3) assignable except as specifically provided in this chapter."

Section 17. Section 19-18-612, MCA, is amended to read:

"19-18-612. Protection of benefits from legal process and taxation -- nonassignability. (1) ~~Any~~

Except for execution or withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse who is the custodial parent of the child, payments made or to be made under this chapter are not subject to judgments, garnishment, execution, or other legal process. A person entitled to a pension may not assign the right, and the association and trustees may not recognize any assignment or pay over any sum so assigned.

(2) The first \$3,600 or the amount determined pursuant to 15-30-111(2)(c)(ii) of benefits received under this part is exempt from state, county, and municipal taxation."

Section 18. Section 19-19-504, MCA, is amended to read:

"19-19-504. Protection of benefits from legal process and taxation. (1) ~~The~~ Except for execution or withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse who is the custodial parent of the child, the benefits provided for in this part are not subject to execution, garnishment, attachment, or the operation of bankruptcy, insolvency, or other process of law and are unassignable except as specifically provided in 19-19-505.

(2) The first \$3,600 or the amount determined pursuant to 15-30-111(2)(c)(ii) of benefits received under this part is exempt from state, county, and municipal taxation."

Section 19. Section 19-20-706, MCA, is amended to read:

"19-20-706. Exemption from taxation and legal process. Except as provided in 19-20-305 and [section 15], the pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of the retirement system and the accumulated contributions and cash and securities in the various funds of the retirement system are:

(1) exempted from any state, county, or municipal tax of the state of Montana except for:

(a) a retirement allowance received in excess of \$3,600 or adjusted by an amount determined pursuant to 15-30-111(2)(c)(ii); or

(b) a withdrawal paid under 19-20-603 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-20-602;

(2) not subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process; and

(3) unassignable except as specifically provided in this chapter."

Section 20. Section 19-21-212, MCA, is amended to read:

"19-21-212. Exemption from taxation, legal process, and assessments. ~~All~~ Except for execution or withholding for the payment of child support or for the payment of spousal support ~~if the child support~~

~~obligation also includes support~~ for a spouse or former spouse who is the custodial parent of the child, contracts, benefits, and contributions under the optional retirement program and the earnings ~~thereon~~ on the contributions are:

- (1) except for a retirement allowance received in excess of \$3,600 or adjusted by an amount determined pursuant to 15-30-111(2)(c)(ii), exempt from any state, county, or municipal tax;
- (2) not subject to execution, garnishment, attachment, or other process;
- (3) not covered or assessable by an insurance guaranty association; and
- (4) unassignable except as specifically provided in the contracts."

Section 21. Section 25-13-608, MCA, is amended to read:

"25-13-608. Property exempt without limitation -- exceptions. (1) A judgment debtor is entitled to exemption from execution of the following:

- (a) professionally prescribed health aids for the judgment debtor or a dependent of the judgment debtor;
- (b) benefits the judgment debtor has received or is entitled to receive under federal social security or local public assistance legislation, except as provided in subsection (2);
- (c) veterans' benefits, except as provided in subsection (2);
- (d) disability or illness benefits, except as provided in subsection (2);
- (e) benefits paid or payable for medical, surgical, or hospital care to the extent they are used or will be used to pay for the care;
- (f) maintenance and child support; and
- (g) a burial plot for the judgment debtor and ~~his~~ the debtor's family.

(2) Veterans' and social security legislation benefits based upon remuneration for employment, as defined in 42 U.S.C. 662(f), and disability benefits are not exempt from execution if the debt for which execution is levied is for:

- (a) child support; or
- (b) maintenance to be paid to a spouse or former spouse if the spouse or former spouse is the custodial parent of a child for whom child support is owed or owing and the judgment debtor is the parent of the child."

Section 22. Section 37-1-307, MCA, is amended to read:

"37-1-307. Board authority. (1) A board may:

- (a) hold hearings as provided in this part;
 - (b) issue subpoenas and administer oaths in connection with investigations and disciplinary proceedings under this part. Subpoenas must be relevant to the complaint, issued by a majority vote of board members not serving on the screening panel described in subsection (1)(e), and signed by the presiding officer of the board. Subpoenas may be enforced as provided in 2-4-104.
 - (c) authorize depositions and other discovery procedures under the Montana Rules of Civil Procedure in connection with an investigation, hearing, or proceeding held under this part;
 - (d) compel attendance of witnesses and the production of documents. Subpoenas may be enforced as provided in 2-4-104.
 - (e) establish a screening panel that determines whether there is reasonable cause to believe that a licensee has violated a statute or rule justifying disciplinary proceedings. The assigned board members may not subsequently participate in a hearing of the case. The final decision on the case must be made by a majority of the board members who did not serve on the screening panel for the case.
 - (f) grant or deny a license and, upon a finding of unprofessional conduct by an applicant or license holder, impose a sanction provided by this chapter.
- (2) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding its licensees and license applicants.
- (3) Each board shall require a license applicant to provide the applicant's social security number as a part of the application."

Section 23. Section 40-1-107, MCA, is amended to read:

"40-1-107. Form of application, license, marriage certificate, and consent. (1) The director of the department of public health and human services shall prescribe the form for an application for a marriage license, which must include the following information:

- (a) name, sex, address, social security number, and date and place of birth of each party to the proposed marriage;
- (b) if either party was previously married, the party's name, and the date, place, and court in which the marriage was dissolved or declared invalid or the date and place of death of the former spouse;
- (c) name and address of the parents or guardian of each party;
- (d) whether the parties are related to each other and, if so, their relationship; and
- (e) the name and date of birth of any child of whom both parties are parents born prior to the making of the application, unless their parental rights and the parent and child relationship with respect to the child

have been terminated.

(2) The director of the department of public health and human services shall prescribe the forms for the marriage license, the marriage certificate, and the consent to marriage."

Section 24. Section 40-4-105, MCA, is amended to read:

"40-4-105. Procedure -- commencement -- pleadings -- abolition of existing defenses. (1) The verified petition in a proceeding for dissolution of marriage or legal separation ~~shall~~ must allege that the marriage is irretrievably broken and ~~shall~~ must set forth:

- (a) the age, occupation, and residence of each party and ~~his~~ the party's length of residence in this state;
- (b) the date of the marriage and the place at which it was registered;
- (c) that the jurisdictional requirements of 40-4-104 exist and that the marriage is irretrievably broken in that either:
 - (i) the parties have lived separate and apart for a period of more than 180 days ~~next~~ preceding the commencement of this proceeding; or
 - (ii) there is serious marital discord which adversely affects the attitude of one or both of the parties towards the marriage, and there is no reasonable prospect of reconciliation;
- (d) the names, ages, and addresses of all living children of the marriage and whether the wife is pregnant;
- (e) any arrangements as to support, custody, and visitation of the children and maintenance of a spouse; and
- (f) the relief sought.

(2) Either or both parties to the marriage may initiate the proceeding.

(3) If a proceeding is commenced by one of the parties, the other party must be served in the manner provided by the Montana Rules of Civil Procedure and may within 20 days after the date of service file a verified response. ~~No~~ A decree may not be entered until 20 days after the date of service.

(4) Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

(5) The court may join additional parties proper for the exercise of its authority to implement this chapter.

(6) The social security number, IF KNOWN, of a person subject to a decree of dissolution or a support order must be recorded in the records relating to the matter."

Section 25. Section 40-4-204, MCA, is amended to read:

"40-4-204. Child support -- orders to address health insurance -- withholding of child support.

(1) In a proceeding for dissolution of marriage, legal separation, maintenance, or child support, the court shall order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct.

(2) The court shall consider all relevant factors, including:

- (a) the financial resources of the child;
- (b) the financial resources of the custodial parent;
- (c) the standard of living that the child would have enjoyed had the marriage not been dissolved;
- (d) the physical and emotional condition of the child and the child's educational and medical needs;
- (e) the financial resources and needs of the noncustodial parent;
- (f) the age of the child;
- (g) the cost of day care for the child;
- (h) any custody arrangement that is ordered or decided upon; and
- (i) the needs of any person, other than the child, whom either parent is legally obligated to support.

(3) (a) Whenever a court issues or modifies an order concerning child support, the court shall determine the child support obligation by applying the standards in this section and the uniform child support guidelines adopted by the department of public health and human services pursuant to 40-5-209. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and those in which the parties have entered into an agreement regarding the support amount. A verified representation of the defaulting parent's income, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable support award, unless the court finds by clear and convincing evidence that the application of the standards and guidelines is unjust to the child or to any of the parties or is inappropriate in that particular case.

(b) If the court finds that the guideline amount is unjust or inappropriate in a particular case, it shall state its reasons for that finding. Similar reasons must also be stated in a case in which the parties have agreed to a support amount that varies from the guideline amount. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines.

(c) If the court does not order a parent owing a duty of support to a child to pay any amount for the child's support, the court shall state its reasons for not ordering child support.

(d) Child support obligations established under this section are subject to the registration and processing provisions of [sections 1 through 11].

(4) Each temporary or final district court judgment, decree, or order establishing a child support obligation under this title and each modification of a final order for child support must include a medical support order as provided for in Title 40, chapter 5, part 8.

(5) (a) Unless the court makes a written exception under 40-5-315 or 40-5-411 and the exception is included in the support order, a support obligation established by judgment, decree, or order under this section, whether temporary or final, and each modification of an existing support obligation under 40-4-208 must be enforced by immediate or delinquency income withholding, or both, under Title 40, chapter 5, part 3 or 4. A support order that omits the written exceptions provided in 40-5-315 or 40-5-411 or that provides for a payment arrangement inconsistent with this section is nevertheless subject to withholding for the payment of support without need for an amendment to the support order or for any further action by the court.

(b) If an obligor is exempt from immediate income withholding, the district court judgment or order must include a warning statement that if the obligor is delinquent in the payment of support, the obligor's income may be subject to income withholding procedures under Title 40, chapter 5, part 3 or 4. Failure to include a warning statement in a judgment or order does not preclude the use of withholding procedures.

(c) If a support order subject to income withholding is expressed in terms of a monthly obligation, the order may be annualized and withheld on a weekly or biweekly basis, corresponding to the obligor's regular pay period. When an order is annualized and withheld on a weekly or biweekly basis under this section, the support withheld from the obligor may be retained by the obligee when it exceeds the obligor's monthly support obligation if the excess support is a result of annualized withholding.

(d) If an obligor is exempted from paying support through income withholding, the support order must include a requirement that whenever the case is receiving services under Title IV-D of the Social Security Act, support payments must be paid through the department of public health and human services as provided in [section 5].

(6) (a) ~~For the purposes of income withholding under subsection (5), each~~ Each district court judgment, decree, or order that establishes paternity or establishes or modifies a child support obligation must include a provision requiring the ~~parent obligated to pay support to inform~~ parties to promptly file with the court and, ~~if the department of public health and human services is providing services under Title IV-D of the Social Security Act for the enforcement of the judgment, decree, or order, the department, of the following~~ to update, as necessary, information on:

(i) the party's identity, residential and mailing addresses, telephone number, social security number, and driver's license number;

~~(a)(ii)~~ (ii) the name, ~~and~~ address, and telephone number of the ~~parent's current~~ party's employer; and

~~(b) whether the parent has access to health insurance through an employer or other group; and~~

~~(c) if insurance coverage is available, the health insurance policy information.~~

(iii) if the child is covered by a health or medical insurance plan, the name of the insurance carrier or health benefit plan, the policy identification number, the names of the persons covered, and any other pertinent information regarding coverage or, if the child is not covered, information as to the availability of coverage for the child through the party's employer.

(b) The order must also require that in any subsequent child support enforcement action, upon sufficient showing that diligent effort has been made to ascertain the location of the party, the district court or the department of public health and human services, if the department is providing services under Title IV-D of the Social Security Act, may consider due process requirements for notice and service of process met with respect to the party upon delivery of written notice by regular mail to the most recent address of the party or the party's employer's address reported to the court.

(7) Each district court judgment, decree, or order establishing a final child support obligation under this part and each modification of a final order for child support must contain a statement that the order is subject to review and modification by the department of public health and human services upon the request of the department or a party under 40-5-271 through 40-5-273 when the department is providing services under Title IV-D of the Social Security Act for the enforcement of the order.

(8) (a) A district court judgment, decree, or order that establishes or modifies a child support obligation must include a provision requiring the child support obligation to be paid, without need for further order of the court, to:

(i) the legal custodian of the minor child;

(ii) ~~(A) any other~~ to a person, organization, or agency ~~having legal~~ to which the legal custodian voluntarily or involuntarily relinquished physical custody of the ~~minor child under a legal assignment of rights~~; or

~~(B) the court for the benefit of the minor child;~~

(iii) any other person, organization, or agency ~~designated as caretaker of the minor child by agreement of the legal custodian~~ entitled by law, assignment, or similar reason to receive or collect the child support obligation; ~~or~~

~~(iv) any assignee or other person, organization, or agency authorized to receive or collect child support.~~

(b) When the department of public health and human services is providing services under Title IV-D of the Social Security Act, payment of support must be made through the department for distribution to the person, organization, or agency entitled to the payment.

~~(c)~~ (c) A judgment, decree, or order that omits the provision required by subsection (8)(a) is subject to the requirements of subsection (8)(a) without need for an amendment to the judgment, decree, or order or for any further action by the court."

Section 26. Section 40-4-206, MCA, is amended to read:

"40-4-206. Payment of maintenance or support to court -- handling fee of clerk. (1) ~~Upon~~ Except as provided in subsection (4), upon its own motion or upon motion of either party, the court may order at any time that maintenance or support payments be made to the clerk of the district court as trustee for remittance to the person entitled to receive the payments.

(2) The clerk of the district court shall maintain records of payments received by the clerk listing the amount of payments, the date payments are required to be made, and the names and addresses of the

parties affected by the order. The clerk may charge the payor a handling fee of \$2 a payment, which must be in addition to the payment. Any handling fee collected by the clerk under this subsection must be paid into the county general fund unless the county has a district court fund. If the county has a district court fund, the amount must be paid into ~~such~~ that fund.

(3) The parties affected by the order shall inform the clerk of the district court of any change of address or of other condition that may affect the administration of the order.

(4) When the department of public health and human services is providing services under Title IV-D of the Social Security Act or when income withholding is in effect in an order issued or modified after October 1, 1998, payment of support must be made through the department for distribution to the person, organization, or agency entitled to the payment."

Section 27. Section 40-5-103, MCA, is amended to read:

"40-5-103. Definitions. (1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a child support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(3) "Duty of support":

(a) means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse; and

(b) includes an unsatisfied obligation to provide support.

(4) "Governor" includes an individual performing the functions of governor or the executive authority of any state covered by this part.

(5) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the state in which the child lived from birth with a parent or person acting as parent. A period of temporary absence of a parent or person acting as parent is counted as part of the 6-month or other period.

(6) "Income" includes:

(a) earnings or other periodic entitlements to money from any source; and

(b) any other property subject to withholding for support under the law of this state.

(7) "Income-withholding order" means an order or other legal process directed to an obligor's employer, as provided in Title 40, chapter 5, parts 3 and 4, or by a tribunal of another state to withhold support from the income of the obligor.

(8) "Initiating state" means a state ~~in~~ from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state pursuant to this part or a law or procedure substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act, the Revised Uniform Reciprocal Enforcement of Support Act, or a law or procedure substantially similar to either of those acts; or pursuant to a proceeding initiated by the department of public health and human services under 40-5-263 ~~is filed for forwarding to a responding state.~~

(9) "Initiating tribunal" means the authorized tribunal in an initiating state.

(10) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(11) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(12) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(13) "Obligee" means:

(a) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(b) a state or political subdivision to which the rights under a duty of support or a support order have been assigned or that has independent claims based on financial assistance provided to an individual obligee; or

(c) an individual seeking a judgment determining parentage of that individual's child.

(14) "Obligor" means an individual or the estate of a decedent:

(a) who owes or is alleged to owe a duty of support;

(b) who is alleged but has not been adjudicated to be a parent of a child; or

(c) who is liable under a support order.

(15) "Prosecuting attorney" means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.

(16) "Register" means to file a support order or judgment determining parentage in the registry of foreign support orders.

(17) "Registering tribunal" means a tribunal in which a support order is registered.

(18) "Responding state" means a state ~~to~~ in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under this part or a law or procedure substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act, the Revised Uniform Reciprocal Enforcement of Support Act, or a law or procedure substantially similar to either of those acts; or under a proceeding initiated by the department of public health and human services under 40-5-263.

(19) "Responding tribunal" means the authorized tribunal in a responding state.

(20) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

(21) "State" means a state of the United States, the District of Columbia, ~~the Commonwealth of~~ Puerto Rico, the Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes an Indian tribe ~~and includes a~~ or a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under this part, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

(22) (a) "Support enforcement agency" means a public official or agency authorized to seek:

(i) enforcement of support orders or laws relating to the duty of support;

(ii) establishment or modification of child support;

(iii) a determination of parentage; or

(iv) to locate obligors or their assets.

(b) Support enforcement agency includes:

(i) in cases brought under ~~title~~ Title IV-D of the Social Security Act, the department of public health and human services; and

(ii) in all other cases, the prosecuting attorney.

(23) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, that:

(a) is for the benefit of a child, a spouse or a former spouse, or a state or political subdivision;

(b) provides for monetary support, health care, arrearages, or reimbursement; and

(c) may include related costs and fees, interest, income withholding, attorney fees, and other relief.

(24) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage."

Section 28. Section 40-5-149, MCA, is amended to read:

"40-5-149. Continuing, exclusive jurisdiction. (1) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

(a) as long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(b) until ~~each individual party has~~ all of the parties who are individuals have filed written consent with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(2) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to this part or a law substantially similar to this part.

(3) If a child support order of this state is modified by a tribunal of another state pursuant to this part or a law substantially similar to this part, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state and may only:

(a) enforce the order that was modified as to amounts accruing before the modification;

(b) enforce nonmodifiable aspects of that order; and

(c) provide other appropriate relief for violations of that order that occurred before the effective date of the modification.

(4) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state that has issued a child support order pursuant to this part or a law substantially similar to this part.

(5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(6) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state."

Section 29. Section 40-5-151, MCA, is amended to read:

"40-5-151. Recognition of child support orders. (1) If a proceeding is brought under this part and only one tribunal has issued a child support order, the order of that tribunal controls and must be recognized.

~~(1)(2)~~ (2) If a proceeding is brought under this part and ~~one~~ two or more child support orders have been issued ~~in~~ by tribunals of this state or another state with regard to ~~an~~ the same obligor and ~~a~~ child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

~~(a) If only one tribunal has issued a child support order, the order of that tribunal must be recognized.~~

~~(b)(a)~~ (a) If ~~two or more tribunals have issued child support orders for the same obligor and child and~~ only one of the tribunals would have continuing, exclusive jurisdiction under this part, the order of that tribunal controls and must be recognized.

~~(c)(b)~~ (b) If ~~two or more tribunals have issued child support orders for the same obligor and child and~~ more

than one of the tribunals would have continuing, exclusive jurisdiction under this part, an order issued by a tribunal in the current home state of the child controls and must be recognized. However, if an order has not been issued in the current home state of the child, the order most recently issued controls and must be recognized.

~~(d)(c)~~ If ~~two or more tribunals have issued child support orders for the same obligor and child and~~ none of the tribunals would have continuing, exclusive jurisdiction under this part, the tribunal of this state ~~may~~ having jurisdiction over the parties shall issue a child support order, which controls and must be recognized.

(3) If two or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this state, a party may request a tribunal of this state to determine which order controls and must be recognized under subsection (2). The request must be accompanied by a certified copy of each support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

~~(2)(4)~~ The tribunal that ~~has issued an~~ the controlling order ~~recognized~~ under ~~subsection~~ subsections (1) through (3) is the tribunal ~~having~~ that has continuing, exclusive jurisdiction under 40-5-149.

(5) A tribunal of this state that determines, by order, the identity of the controlling order under subsection (2)(a) or (2)(b) or that issues a new controlling child support order under subsection (2)(c) shall state in that order the basis upon which the tribunal made its determination.

(6) Within 30 days after issuance of the order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order."

Section 30. Section 40-5-158, MCA, is amended to read:

"40-5-158. Proceedings under this part. (1) Except as otherwise provided in this part, 40-5-158 through 40-5-166, 40-5-170 through 40-5-178, 40-5-180, and 40-5-183 apply to all proceedings under this part.

(2) This part provides for the following proceedings:

(a) establishment of an order for spousal support or child support ~~pursuant to 40-5-179;~~

(b) enforcement of a support order and income-withholding order of another state without registration;

(c) registration of an order for spousal support or child support of another state for enforcement ~~pursuant to 40-5-184 through 40-5-195;~~

(d) modification of an order for child support or spousal support issued by a tribunal of this state ~~pursuant to 40-5-147 through 40-5-150;~~

(e) registration of an order for child support of another state for modification ~~pursuant to 40-5-184~~

~~through 40-5-195;~~

(f) determination of parentage ~~pursuant to 40-5-196;~~ and

(g) assertion of jurisdiction over nonresidents pursuant to 40-5-145 and 40-5-146.

(3) If the tribunal is the department of public health and human services, this part includes the administrative remedies under this chapter.

(4) An individual or a support enforcement agency may commence a proceeding authorized under this part by filing a petition in an appropriate initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state that has or can obtain personal jurisdiction over the respondent."

Section 31. Section 40-5-161, MCA, is amended to read:

"40-5-161. Duties of initiating tribunal. (1) Upon the filing of a petition authorized by this part, an initiating tribunal shall forward three copies of the petition and its accompanying documents:

(a) to the responding tribunal or appropriate support enforcement agency in the responding state; or

(b) if the identity of the responding tribunal is unknown, to the state information agency of the responding state, with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(2) The department of public health and human services is the initiating tribunal for any action or proceeding that may be brought under Title 40, chapter 5, parts 2, 4, and 5. In all other cases, the district court is the initiating tribunal.

(3) If a responding state has not enacted the Uniform Interstate Family Support Act or another law substantially similar to that act, a tribunal of this state may issue a certificate or other documents and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state."

Section 32. Section 40-5-162, MCA, is amended to read:

"40-5-162. Duties and powers of responding tribunal. (1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to 40-5-158 (4), it shall cause the petition or pleading to be filed and notify the petitioner ~~by first-class mail~~ where and when it was filed.

(2) A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(a) issue or enforce a support order, modify a child support order, or render a judgment to determine

parentage;

- (b) order an obligor to comply with a support order, specifying the amount and the manner of compliance;
 - (c) order income withholding;
 - (d) determine the amount of any arrearages and specify a method of payment;
 - (e) enforce orders by use of civil or criminal contempt, or both;
 - (f) set aside property for satisfaction of the support order;
 - (g) place liens and order execution on the obligor's property;
 - (h) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;
 - (i) issue a bench warrant for an obligor who has failed, after proper notice, to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;
 - (j) order the obligor to seek appropriate employment by specified methods;
 - (k) award reasonable attorney fees and other fees and costs; and
 - (l) grant any other available remedy.
- (3) A responding tribunal of this state shall include in a support order issued under this part or in the documents accompanying the order the calculations on which the support order is based.
- (4) A responding tribunal of this state may not condition the payment of a support order issued under this part upon a party's compliance with visitation provisions.
- (5) If a responding tribunal of this state issues an order under this part, the tribunal shall send a copy of the order ~~by first-class mail~~ to the petitioner and the respondent and to the initiating tribunal, if any.
- (6) The department of public health and human services is the responding tribunal for receipt of a petition or comparable proceedings from an initiating state as provided in 40-5-263. In all other cases, the district court is the responding tribunal."

Section 33. Section 40-5-163, MCA, is amended to read:

"40-5-163. Inappropriate tribunal. If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner ~~by first-class mail~~ where and when the pleading was sent."

Section 34. Section 40-5-164, MCA, is amended to read:

"40-5-164. Duties of support enforcement agency. (1) A support enforcement agency of this state, upon application, shall provide services to a petitioner in a proceeding under this part.

(2) A support enforcement agency that is providing services to the petitioner shall, as appropriate:

(a) take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(b) request an appropriate tribunal to set a date, time, and place for a hearing;

(c) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(d) after receipt of a written notice from an initiating, responding, or registering tribunal, promptly send a copy of the notice ~~by first-class mail~~ to the petitioner;

(e) after receipt of a written communication from the respondent or the respondent's attorney, promptly send a copy of the communication ~~by first-class mail~~ to the petitioner; and

(f) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(3) This part does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

(4) For purposes of this part, the department of public health and human services is the support enforcement agency for this state as provided in Title 40, chapter 5, parts 2, 4, and 5. All the provisions of this part must be interpreted as supplemental to and cumulative with the department's powers and duties under those provisions. In all other cases, the county attorney in the county in which an action must be filed is the support enforcement agency."

Section 35. Section 40-5-173, MCA, is amended to read:

"40-5-173. Costs and fees. (1) The petitioner may not be required to pay a filing fee or other costs to initiate a proceeding under this part.

(2) If an obligee prevails, a responding tribunal may assess against an obligor the filing fees, reasonable attorney fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. Except as provided by other law, the tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state. Attorney fees may be taxed as costs and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of current support owed to the obligee has priority over fees, costs, and expenses.

(3) The tribunal shall order the payment of costs and reasonable attorney fees if it determines that a hearing was requested primarily for delay. In a proceeding under ~~40-5-184 through 40-5-195 or 40-5-271~~ this part for enforcement or modification of a support order after registration, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

(4) The standardized schedule of fees established by the department of public health and human services under 40-5-210 is conclusive in any action under this section. Any fees or costs recoverable under subsection (2) that are not included in the standardized schedules are recoverable under subsection (2)."

Section 36. Section 40-5-186, MCA, is amended to read:

"40-5-186. Effect of registration enforcement. (1) A support order or income-withholding order issued in another state is registered when the order is filed in a registering tribunal of this state.

(2) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(3) Except as otherwise provided in ~~40-5-184 through 40-5-195~~ this part, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction."

Section 37. Section 40-5-188, MCA, is amended to read:

"40-5-188. Notice of registration of order. (1) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. ~~Notice must be given by first-class or certified mail or by any means of personal service authorized by the law of this state.~~ The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) The notice must inform the nonregistering party:

(a) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) that a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after ~~the date of mailing or personal service of the~~ notice;

(c) that failure to contest the validity or enforcement of the registered order in a timely manner:

(i) will result in confirmation of the order and enforcement of the order and the alleged arrearages; and

(ii) precludes further contest of that order with respect to any matter that could have been asserted; and

(d) of the amount of any alleged arrearages.

(3) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to ~~Title 40, chapter 5, part 4~~ the income-withholding laws of this state."

Section 38. Section 40-5-189, MCA, is amended to read:

"40-5-189. Procedure to contest validity or enforcement of registered order. (1) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within 20 days after the date of mailing or personal service of notice of the registration. The nonregistering party may, pursuant to 40-5-190, seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties ~~by first-class mail~~ of the date, time, and place of the hearing."

Section 39. Section 40-5-194, MCA, is amended to read:

"40-5-194. Modification of child support order of another state. (1) After a child support order issued in another state has been registered in this state, the ~~appropriate~~ responding tribunal of this state may modify that order only if [section 10] does not apply, and, after notice and hearing, it finds that:

(a) the following requirements are met:

(i) the child, the individual obligee, and the obligor do not reside in the issuing state;

(ii) a petitioner who is a nonresident of this state seeks modification; and

(iii) the respondent is subject to the personal jurisdiction of the tribunal of this state; or

(b) ~~an individual party or~~ the child or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state and all of the ~~individual~~ parties who are individuals have filed ~~in the issuing tribunal a written consent providing that the appropriate~~ consents in the issuing tribunal for a tribunal of this state ~~may~~ to modify the support order and ~~that this state may~~ assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under this part, the consent otherwise required of an individual residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order.

(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state, and the order may be enforced and satisfied in the same manner.

(3) A tribunal of this state may not modify ~~only~~ any aspect of a child support order that may not be modified under the laws of the issuing state. ~~A tribunal may not modify provisions, such as custody, visitation, or other provisions not related to support~~ If two or more tribunals have issued child support orders for the same obligor and child, the order that controls and must be recognized under 40-5-151 establishes the aspects of the support order that are nonmodifiable.

(4) On issuance of an order modifying a child support order issued in another state, a tribunal of this state has continuing, exclusive jurisdiction.

(5) Within 30 days after issuance of a modified child support order, the ~~tribunal issuing~~ party obtaining the modification shall file a certified copy of the order:

(a) with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order; and

(b) in each tribunal in which the ~~modifying tribunal~~ party knows that the earlier order has been registered.

(6) A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal of continuing, exclusive jurisdiction."

Section 40. Section 40-5-195, MCA, is amended to read:

"40-5-195. Recognition of order modified in another state. A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state that assumed jurisdiction pursuant to this part or a law substantially similar to this part. Except as otherwise provided in this part, the tribunal of this state shall, upon request:

(1) enforce the order that was modified only as to amounts accruing before the modification;

(2) enforce only nonmodifiable aspects of that order;

(3) provide other appropriate relief only for violations of the order that occurred before the effective date of the modification; and

(4) recognize the modifying order of the other state, upon registration, for the purpose of enforcement."

Section 41. Section 40-5-196, MCA, is amended to read:

"40-5-196. Proceeding to determine parentage. (1) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this part or a law or procedure substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act, ~~or~~ the Revised Uniform Reciprocal Enforcement of Support Act, or a law or procedure substantially similar to either of those acts to determine whether the petitioner is a parent of a particular child or to determine whether a respondent is a parent of that child.

(2) In a proceeding to determine parentage, a responding tribunal of this state shall apply the rules of this state on choice of law.

(3) A proceeding to determine parentage directed to:

(a) the department of public health and human services from an initiating state pursuant to 40-5-263 and this part is subject to the provisions of 40-5-231 through 40-5-237 or Title 40, chapter 6, part 1, as applicable; and

(b) a district court from an initiating state is subject to the provisions of Title 40, chapter 6, part 1."

Section 42. Section 40-5-201, MCA, is amended to read:

"40-5-201. Definitions. As used in this part, the following definitions apply:

(1) "Alleged father" means a person who is alleged to have engaged in sexual intercourse with a child's mother during a possible time of conception of the child or a person who is presumed to be a child's father under the provisions of 40-6-105.

(2) (a) "Child" means any person under 18 years of age who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; any person under 19 years of age and still in high school; or any person who is mentally or physically incapacitated if the incapacity began prior to the person's 18th birthday and for whom:

(i) support rights are assigned under 53-2-613;

(ii) a public assistance payment has been made;

(iii) the department is providing support enforcement services under 40-5-203; or

(iv) the department has received a referral for interstate services from an agency of another state under the provisions of the Uniform Reciprocal Enforcement of Support Act, the Revised Uniform Reciprocal Enforcement of Support Act, the Uniform Interstate Family Support Act, or ~~under~~ Title IV-D of the Social Security Act.

(b) The term may not be construed to limit the ability of the department to enforce a support order according to its terms when the order provides for support to extend beyond the child's 18th birthday.

(3) "Department" means the department of public health and human services.

(4) "Director" means the director of the department of public health and human services or the director's authorized representative.

(5) "Guidelines" means the child support guidelines adopted pursuant to 40-5-209.

(6) "Hearings officer" or "hearing examiner" means the hearings officer appointed by the department for the purposes of this chapter.

(7) "Need" means the necessary costs of food, clothing, shelter, and medical care for the support of a child or children.

(8) "Obligee" means:

(a) a person to whom a duty of support is owed and who is receiving support enforcement services under this part; or

(b) a public agency of this or another state having the right to receive current or accrued support payments.

(9) "Obligor" means a person, including an alleged father, who owes a duty of support.

(10) "Parent" means the natural or adoptive parent of a child.

(11) "Paternity blood test" means a test that demonstrates through examination of genetic markers either that an alleged father is not the natural father of a child or that there is a probability that an alleged father is the natural father of a child. The genetic markers may be identified from a person's blood or tissue sample. The blood or tissue sample may be taken by blood drawing, buccal swab, or any other method approved by the American association of blood banks. Paternity blood tests may include but are not limited to the human leukocyte antigen test and DNA probe technology.

(12) "Public assistance" means any type of monetary or other assistance for a child, including medical and foster care benefits. The term includes payments to meet the needs of a relative with whom the child is living, if assistance has been furnished with respect to the child by a state or county agency of this state or any other state.

(13) "Support debt" or "support obligation" means the amount created by:

(a) the failure to provide for the medical, health, and support needs of a child under the laws of this or any other state or under a support order; or

(b) a support order for spousal maintenance ~~if the judgment or order requiring payment of maintenance also contains a judgment or order requiring payment of child support for a child of whom the person awarded maintenance is of the custodial parent.~~

(14) "Support order" means an order, whether temporary or final, that:

(a) provides for the payment of a specific amount of money, expressed in periodic increments or as a lump-sum amount, for the support of the child, including an amount expressed in dollars for medical and health needs, child care, education, recreation, clothing, transportation, and other related expenses and costs specific to the needs of the child; and

(b) is issued by:

(i) a district court of this state;

(ii) a court of appropriate jurisdiction of another state, Indian tribe, or foreign country;

(iii) an administrative agency pursuant to proceedings under this part; or

(iv) an administrative agency of another state, Indian tribe, or foreign country with a hearing function and process similar to those of the department under this part.

(15) "IV-D" means the provisions of Title IV-D of the Social Security Act and the regulations promulgated under the act."

Section 43. Section 40-5-203, MCA, is amended to read:

"40-5-203. Child support enforcement services. (1) The department may accept applications for child support enforcement services on behalf of persons who are not recipients of public assistance and may take appropriate action to establish or enforce support obligations against persons owing a duty to pay support.

(2) The department may establish by rule the terms and conditions by which services are provided under this section.

(3) If child support enforcement services are provided under this part to or for a child as a result of the payment of public assistance, the department ~~may~~ shall continue to provide services after public assistance is no longer being paid, subject to the same conditions and on the same basis as in the case of other individuals to whom services are furnished under this section, without requiring an application, application fee, or other request for services. ~~An obligee's acceptance~~ Acceptance of continued services constitutes ~~the obligee's~~ agreement to the terms and conditions set for applicants by the department under this section.

(4) Services under this section, including information requests, are available to obligors, obligees, and residents of other states on the same terms as residents of this state.

~~(4)~~(5) The department may terminate services under this section if it:

(a) receives a written request ~~from the obligee~~ for termination of services from the person to whom services are being provided;

(b) receives notice that the child is receiving public assistance; or

(c) determines that ~~an obligee~~ the person receiving services has violated any term or condition set by the department for an applicant under this section.

(6) FOR PURPOSES OF CREDIT RATING REPORTS BY THE DEPARTMENT, THE DEPARTMENT SHALL INDICATE IF THE WITHHOLDING IS FOR DELINQUENT SUPPORT OR FOR REGULAR MONTHLY SUPPORT OBLIGATIONS."

Section 44. Section 40-5-206, MCA, is amended to read:

"40-5-206. Central unit for information and administration -- cooperation enjoined -- availability of records. (1) The department shall establish a central unit to serve as a registry for the receipt of information, for answering interstate inquiries concerning deserting parents, for receiving and answering

requests for information made by consumer reporting agencies under 40-5-261, to coordinate and supervise departmental activities in relation to deserting parents, and to ensure effective cooperation with law enforcement agencies.

~~(2) If services are provided to a child under this part, the~~ The department or other IV-D agency may request and, notwithstanding any statute making the information confidential, all state, county, and city agencies, officers, and employees shall provide on request information, if known, concerning an obligor or obligee, including:

- (a) name;
- (b) residential and mailing addresses;
- (c) date of birth;
- (d) social security number;
- (e) wages or other income;
- (f) number of dependents claimed for state and federal income tax withholding purposes;
- (g) name and address of employer;
- (h) state and local tax and revenue records;
- (i) penal corrections records;
- ~~(h)~~(j) address, location, and description of any real property or titled personal property; and
- ~~(i)~~(k) any other asset in which the obligor or obligee may have an interest, including its location and the extent, nature, and value of the interest.

(3) Upon service of an administrative subpoena from the department or another IV-D agency, public utilities, cable television companies, AND financial institutions, ~~and all other entities maintaining customer data bases~~ shall, with regard to an obligor or obligee, provide the department or the requesting IV-D agency with the name and address of the obligor or obligee, the name and address of the obligor's or obligee's employer, and any information on the obligor's or obligee's assets and liabilities contained in customer records.

~~(3)~~(4) Any information obtained by the department during the course of a child support investigation that is confidential at the source must be treated by the department as confidential and must be safeguarded accordingly. ~~The~~ Absent a specific statutory prohibition to the contrary and subject to subsection (6), the department may release information obtained from nonconfidential public and private sources, including information regarding support orders, judgments, and payment records.

~~(4)~~(5) ~~Use~~ Absent a specific statutory prohibition or rule to the contrary and subject to subsection (6), use or disclosure of information obtained by the department from confidential sources ~~of and~~ or any information maintained by the department in its records, including the names, addresses, and social security numbers of obligors and obligees, is limited to:

- (a) purposes directly related to the provision of services under this chapter;
 - (b) county attorneys and courts having jurisdiction in support and abandonment proceedings and agencies in other states engaged in the enforcement of support of minor children under the federal Social Security Act; and
 - (c) any other use permitted or required by the federal Social Security Act.
- (6) The department may not disclose information regarding the whereabouts of a party to another party if:
- (a) the department received notice that a protective order with respect to the party has been entered against the other party; or
 - (b) the department has reason to believe that the release of information may result in physical or emotional harm to the party.
- (7) A person[, public entity,] or private entity that discloses information to the department in compliance with this section is not liable to the obligor or obligee for negligent disclosure.
- (8) An entity failing to comply with this section is subject to the contempt authority of the department under 40-5-226."

Section 45. Section 40-5-210, MCA, is amended to read:

"40-5-210. Standardized fee schedule -- rules. (1) The department may charge an application fee to each person applying for services under 40-5-203, except that the fee may not be charged to persons who receive continuing services under 40-5-203(3). The application fee may be:

- (a) a flat dollar amount; or
 - (b) an amount based on a sliding fee schedule that is based on the applicant's income level.
- (2) If paternity is established or presumed under 40-5-234 for the alleged father, the fees for paternity blood testing may be recovered from the parent, whether the alleged father or the mother, denying paternity of the alleged father. The total amount of the paternity blood testing fee may not exceed the actual costs of the paternity blood tests. A bill for a paternity blood test is admissible in evidence without third-party foundation testimony.
- (3) The department may charge a handling fee for each payment of support collected on behalf of any obligee who is not a recipient of public assistance. The department may withhold the fee from the support payment before distribution to the obligee.
- (4) The department may charge an obligor a late payment fee for each late payment of support collected on behalf of any obligee.
- (5) The department may establish a fee schedule in order to recover costs and expenses in excess of the application, handling, and late fees. The fees must be commensurate with costs or an average of the

expenditures related to specific or routine activities.

(a) The department shall develop procedures for determining whether it is appropriate for either the obligor or the obligee to be responsible for payment of the fee. In developing the procedures, the department shall consider federal regulations promulgated under Title IV-D of the Social Security Act.

(b) In an action to establish paternity or to establish or enforce a child support obligation, whether in district court or by administrative process, the department must be awarded costs in the amount established in the fee schedule as part of any judgment, decree, or order whenever the department:

(i) is a prevailing party in the action; or

(ii) is not a party but incurs expenses and costs related to the action.

(6) The department may collect the fees awarded under this section by one of the following means:

(a) if the fee is owed by an obligor, the fee may be:

(i) collected through any remedy available to the department for the collection of child support arrearages; or

(ii) deducted from any payments made by the obligor before the payment is distributed to the obligee. Credit for the payment must be reduced by the amount of the deduction for the fee. The deduction for fees may not reduce any current support due to the obligee. The deduction for a late payment fee may not reduce any current or past-due support due to the obligee.

(b) if the fee is owed by the obligee, the fee may be collected separately through any remedy available to the department for the collection of child support or the department may withhold the fee amount out of any payment collected on behalf of the obligee. The obligor must receive full credit for the payment as if the withholding of fees did not occur.

(7) The department, upon a showing of necessity, may waive or defer any fee assessed under this section.

(8) The department may adopt rules necessary to implement fee schedules under this section.

(9) The fees and costs charged and collected under this section must be paid monthly into the state treasury to the credit of the child support enforcement division special revenue fund and must be accompanied by a detailed statement of the amounts collected."

Section 46. Section 40-5-225, MCA, is amended to read:

"40-5-225. Notice of financial responsibility -- temporary and final support obligations -- administrative procedure. ~~(1) (a) In the absence of a support order, the department may serve an obligor with a notice of financial responsibility alleging a child's need for support and the amount of the need and requiring the obligor to appear and show cause at a hearing held by the department why the obligor should not be finally ordered to pay the amount alleged in the notice.~~

~~(b) The notice must state:~~

~~(i) the names of the obligee and child;~~

~~(ii) the amount of current and future support to be paid each month for the child;~~

~~(iii) that if the obligor does not file a written answer within 20 days from the date of service or refusal of service, the amount in the notice must be finally ordered;~~

~~(iv) that the obligor is entitled to a fair hearing under 40-5-226.~~

~~(2) If, prior to the service of the notice under this section, the department has information concerning the obligor's financial condition, the department's allegation of the obligor's monthly support responsibility must be based on the scale of suggested minimum contributions under 40-5-214. If such information is unknown to the department, the allegations of the obligor's monthly support responsibility must be based on the greater of:~~

~~(a) the amount of public assistance payable under Title 53, chapter 4; or~~

~~(b) the alleged need.~~

~~(3) If the obligor objects to the notice, the obligor shall file a written answer with the department within 20 days from the date of service or refusal of service. If the department receives a timely answer, it shall conduct a fair hearing under 40-5-226. If the department does not receive a timely answer, it shall order the obligor to pay the amount stated in the notice.~~

(1) In the absence of an existing support order, when the requirements of this section are met, the department may enter an order requiring a child's parent or parents to pay an amount each month for the support of the child. The support order must include a medical support order as required by 40-5-208.

(2) An action to establish a support order must be commenced by serving a notice of financial responsibility on the parent or parents. The notice must include a statement:

(a) of the names of the child, the obligee, and if different than the obligee, the child's guardian or caretaker relative;

(b) of the dollar amount of the support obligation to be paid each month for the child;

(c) that in addition to child support, the parent or parents may be ordered to provide for the child's medical support needs;

(d) that any party may request a hearing to contest the amount of child support shown in the notice or to contest the establishment of a medical support order;

(e) that if a party does not timely file a request for hearing, support, including medical support, will be ordered as declared in the notice or in accordance with the child support guidelines adopted under 40-5-209;

(f) that if a party does request a hearing, the other parties may refuse to participate in the proceedings, however, the child support and medical support order will be determined using the information available

to the department or provided at the hearing;

(g) that a party's refusal to participate is a consent to entry of a child support and medical support order consistent with the department's determination; and

(h) that the parties are entitled to a fair hearing under 40-5-226.

~~(4) (a)(3) If a support action is pending in district court and a temporary or permanent support obligation has not been ordered or if a paternity action is pending and there is clear and convincing evidence of paternity based on paternity blood tests or other evidence, the department may issue to the obligor a notice of temporary support obligation~~ enter an order requiring a child's parent or parents to pay an amount each month for the temporary support of the child pending entry of a support order by the district court. The temporary support order must include a medical support order as required by 40-5-208.

~~(b) The notice must contain:~~

~~(i) the names of the child and the person or agency having the custodial care of the child;~~

~~(ii) an amount for temporary monthly support determined as provided in subsection (2);~~

~~(iii) a statement that the obligor may request a hearing at which the obligor may show that a different support amount is appropriate or that establishment of a support obligation is inappropriate under the circumstances. The hearing must be conducted in accordance with the procedures of 40-5-226.~~

~~(iv) a statement that a hearing must be requested in writing within 10 days of receipt of the notice or the order for a temporary support order will be entered in the amount stated in the notice; and~~

~~(v) a statement that the temporary support order will terminate upon the entry of a district court support order. If the district court order is retroactive, any amount paid for a particular period under the temporary support order must be credited against the amounts due under the district court order for the same period, but excess amounts may not be refunded. If the district court determines that a periodic support obligation is not proper, any amount paid under the temporary support order must be refunded to the obligor.~~

(4) An action to establish a temporary support order must be commenced by serving a notice of temporary support obligation on the parent or parents. In addition to the statements required in subsection (2), the notice must include a statement that:

(a) a party may request a hearing to show that a temporary support obligation is inappropriate under the circumstances; and

(b) the temporary support order will terminate upon the entry of a final support order or an order of nonpaternity. If the final order is retroactive, any amount paid for a particular period under the temporary support order must be credited against the amounts due under the final order for the same period, but excess amounts may not be refunded. If an order of nonpaternity is issued or if the final support order states that periodic support obligation is not proper, the obligor may seek a refund from the obligee for any amounts paid under the temporary support order.

(5) (a) If a temporary support order is entered or if proceedings are commenced under this section for a

married obligor, the department shall vacate any support order or dismiss any proceeding under this part if it finds that the parties to the marriage have:

- (i) reconciled without the marriage having been dissolved;
- (ii) made joint application to the department to vacate the order or dismiss the proceeding; and
- (iii) provided proof that the marriage has been resumed.

(b) The department may not vacate a support order or dismiss a proceeding under this subsection (5) if it determines that the rights of a third person or the child are affected. The department may issue a new notice of temporary support obligation under this section if the parties subsequently separate.

(6) ~~Any~~ A notice of financial responsibility and the notice of temporary support obligation ~~must~~ may be served by certified mail or in the same manner prescribed for the service of a summons in civil action in accordance with the Montana Rules of Civil Procedure.

(7) If prior to service of a notice under this section, the department has sufficient financial information, the department's allegation of the obligor's monthly support responsibility, whether temporary or final, must be based on the child support guidelines established under 40-5-214. If the information is unknown to the department, the allegations of the parent's or parents' monthly support responsibility must be based on the greater of:

(a) the maximum amount of public assistance that could be payable to the child under Title 53 if the child were otherwise eligible for assistance; or

(b) the child's actual need as alleged by the custodial parent, guardian, or caretaker of the child.

(8) (a) A party who objects to a notice of financial responsibility or notice of temporary support obligation may file a written request for hearing with the department:

- (i) within 20 days from the date of service of a notice of financial responsibility; and
- (ii) within 10 days from the date of service of a notice of temporary support obligation.

(b) If the department receives a timely request for a hearing, it shall conduct one under 40-5-226.

(c) If the department does not receive a timely request for a hearing, it shall order the parent or parents to pay child support and to provide for the child's medical needs as stated in the notice. The child support obligation must be the amount stated in the notice or determined in accordance with the child support guidelines adopted under 40-5-209.

(9) A child support and medical support order under subsection (1) continues until the child attains 18 years of age or the child's graduation from high school, whichever occurs later, but not later than the child's 19th birthday, unless the child is sooner emancipated by court order. A temporary support obligation established under subsection (3) continues until terminated as provided in subsection (5) or until the temporary order is superseded by a final order, judgment, or decree."

Section 47. Section 40-5-226, MCA, is amended to read:

"40-5-226. Administrative hearing -- nature -- place -- time -- determinations -- failure to appear -- entry of final decision and order. (1) The administrative hearing is defined as a "contested case".

(2) If a hearing is requested, it must ~~be scheduled within 20 days~~ initially be by teleconference methods and is subject to the Montana Administrative Procedure Act. At the request of a party ~~and~~ OR upon a showing that the party's case was substantially prejudiced by the lack of an in-person hearing, the hearings officer shall grant a de novo in-person hearing.

(3) The hearings officer shall determine the liability and responsibility, if any, of the ~~obligor~~ parent or parents under the notice and shall enter a final decision and order in accordance with the determination. The order may award support from the date of:

(a) the child's birth if paternity was established under 40-5-231 through 40-5-238 or under Title 40, chapter 6, part 1, subject to the limitation in 40-6-108(3)(b);

(b) the parties' separation if support is initially established under 40-5-225; or

(c) notice to the parties of a support modification request under 40-5-273.

(4) (a) ~~¶~~ Except as provided in subsection (4)(b), if the ~~obligor fails~~ parent or parents fail to appear at the hearing or ~~fails~~ to timely file a request for a hearing, the hearings officer, upon a showing of valid service, shall enter a default decision and order declaring the amount stated in the notice to be final.

(b) In a multiple party proceeding under 40-5-225, if one party files a timely request for hearing, the matter must be set for hearing. Notice of the hearing must be served on the parties. If a party refuses to appear for the hearing or participate in the proceedings, the hearing officer shall determine child support and medical support orders based on the notice, information available to the department, and evidence provided at the hearing by the appearing parties. A party's refusal to appear is a consent to entry of child and medical support orders consistent with the hearing officer's determination.

(5) In a hearing to determine financial responsibility, whether temporary or final, and in any proceeding to modify support under 40-5-273, the monthly support responsibility must be determined in accordance with the evidence presented and with reference to the uniform child support guidelines adopted by the department under 40-5-209. The hearings officer is not limited to the amounts stated in the notice. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and those in which the order is entered upon the parties' consent. A verified representation of a defaulting parent's income, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable support award, unless the hearings officer finds by clear and convincing evidence that the application of the guidelines is unjust to the child or to any of the parties or is inappropriate in a particular case. If the hearings officer finds that the guideline amount is unjust or inappropriate in a particular case, the hearings officer shall state the reasons for finding that the application of the guidelines is unjust to the child or a party or is inappropriate in that particular case. Similar findings must also be made in a case in which the parties have agreed to a support amount that varies from the guideline amount. The hearings officer may vary the application of the guidelines to limit the obligor's liability for past support to the proportion of expenses already incurred that the hearings officer considers just. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines.

(6) In a hearing to enforce a support order or to establish paternity under this chapter, the department shall send a copy of the notice of hearing to the obligee by regular mail addressed to the obligee's last-known address. The obligee may attend and observe the hearing as a nonparty. This subsection does not limit participation of an obligee who is a party to the proceedings or who is called as a witness to testify.

~~(6)(7)~~ (a) ~~Within 20 days of the hearing, the~~ The WITHIN 60 DAYS AFTER THE HEARING HAS BEEN CONCLUDED, ANY POST-HEARING BRIEFS ARE RECEIVED, AND ALL THE EVIDENCE SUBMITTED, EXCEPT FOR GOOD CAUSE, THE hearings officer shall enter a final decision and order. The determination of the hearings officer constitutes a final agency decision, subject to judicial review under 40-5-253 and the provisions of the Montana Administrative Procedure Act. A copy of the final decision must be delivered or mailed to each party, each party's attorney, and the obligee if the obligee is not a party.

(b) A child support obligation established under this section is subject to the registration and processing provisions of [sections 1 through 11].

~~(7)(8)~~ (8) A support order entered under this part must contain a statement that the order is subject to review and modification by the department upon the request of the department or a party under 40-5-271 through 40-5-273 when the department is providing services under IV-D for the enforcement of the order.

~~(8)(9)~~ (9) A support debt determined pursuant to this section is subject to collection action without further necessity of action by the hearings officer.

~~(9)(10)~~ (10) A child support ~~debt or a support responsibility~~ obligation determined under this part by reason of the obligor's failure to request a hearing under this part or failure to appear at a scheduled hearing may be vacated, upon the motion of an obligor, by the hearings officer within the time provided and upon a showing of any of the grounds enumerated in the Montana Rules of Civil Procedure. WHEN ISSUING A SUPPORT ORDER, THE DEPARTMENT SHALL CONSIDER WHETHER ANY OF THE EXCEPTIONS TO IMMEDIATE INCOME WITHHOLDING FOUND AT 40-5-411 APPLY, AND, IF AN EXCEPTION IS APPLICABLE, THE DEPARTMENT SHALL INCLUDE THE EXCEPTION IN THE SUPPORT ORDER.

~~(10)(11)~~ (11) (a) Unless the hearings officer makes a written exception under 40-5-315 or 40-5-411 and the exception is included in the support order, each order establishing a child support obligation, whether temporary or final, and each modification of an existing child support order under this part is enforceable by immediate or delinquency income withholding, or both, under Title 40, chapter 5, part 4. A support order that omits that provision or that provides for a payment arrangement inconsistent with this section is nevertheless subject to withholding for the payment of support without need for an amendment of the support order or for any further action by the hearings officer.

(b) If an obligor is excepted from paying support through income withholding, the support order must include a requirement that whenever a party to the case is receiving IV-D services, support payments must be paid through the department as provided in [section 5].

~~(11)(12)~~ (12) (a) ~~For the purposes of income withholding provided for in subsection (10), whenever~~ If the department establishes paternity or establishes or modifies a child support obligation, the department's order must include a provision requiring the obligor, for as long as the department is providing support enforcement services, to keep the department informed of the name and address of the obligor's current employer, whether the obligor has access to health insurance through an employer or other group, and, if

~~so, the health insurance policy information;~~ each party other than the department to promptly file with the department and to update, as necessary, information on:

- (i) identity of the party;
- (ii) social security number;
- (iii) residential and mailing addresses;
- (iv) telephone number;
- (v) driver's license number;
- (vi) name, address, and telephone number of employer; and
- (vii) if the child is covered by a health or medical insurance plan, the name of the insurance carrier or health benefit plan, the policy identification number, the name of the persons covered, and any other pertinent information regarding coverage or, if the child is not covered, information as to the availability of coverage for the child through the obligor's and obligee's employer.

(b) The order must further direct that in a subsequent child support enforcement action, upon sufficient showing that diligent effort has been made to ascertain the location of the party, the department's due process requirements for notice and service of process are met with respect to the party upon delivery of written notice by regular mail to the most recent address of the party or the party's employer's address reported to the department.

~~(12)~~(13) The hearings officer may:

- (a) compel obedience to the hearings officer's orders, judgments, and process and to ~~any~~ subpoenas and orders issued by the department, including income-withholding orders issued pursuant to 40-5-415;
- (b) compel the attendance of witnesses at administrative hearings;
- (c) compel obedience of subpoenas for paternity blood tests;
- (d) compel the production of accounts, books, documents, and other evidence; ~~and~~
- (e) punish for civil contempt. Contempt authority does not prevent the department from proceeding in accordance with the provisions of 2-4-104.
- (f) compel the production of information requested by the department or IV-D agency of another state under 40-5-443.

~~(13)~~(14) A contempt occurs whenever:

- (a) a person acts in disobedience of any lawful order, judgment, or process of the hearings officer or of the department;
- (b) a person compelled by subpoena to appear and testify at an administrative hearing or to appear for genetic paternity tests fails to do so;

- (c) a person compelled by subpoena duces tecum to produce evidence at an administrative hearing fails to do so;
 - (d) an obligor or obligee subject to a discovery order issued by the hearings officer fails to comply with discovery requests; ~~or~~
 - (e) a person or entity compelled by administrative subpoena from the department or another IV-D agency to produce financial information or other information needed to establish paternity or to establish, modify, or enforce a support order fails to do so;
 - ~~(e)~~(f) a payor under an order to withhold issued pursuant to 40-5-415 fails to comply with the provisions of the order. In the case of a payor under an income-withholding order, a separate contempt occurs each time that income is required to be withheld and paid to the department and the payor fails to take the required action.
 - (g) a payor or labor union fails to provide information to the department or another IV-D agency when requested under 40-5-443; or
 - (h) a financial institution uses information provided by the department pursuant to [section 11] for any other purpose without the authorization of the department.
- ~~(14)~~(15) An affidavit of the facts constituting a contempt must be submitted to the hearings officer, who shall review it to determine whether there is cause to believe that a contempt has been committed. If cause is found, the hearings officer shall issue a citation requiring the alleged contemnor to appear and show cause why the alleged contemnor should not be determined to be in contempt and required to pay a penalty of not more than \$500 for each count of contempt. The citation, along with a copy of the affidavit, must be served upon the alleged contemnor either by personal service or by certified mail. All other interested persons may be served a copy of the citation by first-class mail.
- ~~(15)~~(16) At the time and date set for hearing, the hearings officer shall proceed to hear witnesses and take evidence regarding the alleged contempt and any defenses to the contempt. If the alleged contemnor fails to appear for the hearing, the hearing may proceed in the alleged contemnor's absence. If the hearings officer finds the alleged contemnor in contempt, the hearings officer may impose a penalty of not more than \$500 for each count found. The hearings officer's decision constitutes a final agency decision, subject to judicial review under 40-5-253 and subject to the provisions of Title 2, chapter 4.
- ~~(16)~~(17) An amount imposed as a penalty may be collected by any remedy available to the department for the enforcement of child support obligations, including warrant for distraint pursuant to 40-5-247, income withholding pursuant to Title 40, chapter 5, part 4, and state debt offset, pursuant to Title 17, chapter 4, part 1. The department may retain any penalties collected under this section to offset the costs of administrative hearings conducted under this chapter.
- ~~(17)~~(18) The penalties charged and collected under this section must be paid into the state treasury to the credit of the child support enforcement division special revenue fund and must be accompanied by a detailed statement of the amounts collected."

Section 48. Section 40-5-227, MCA, is amended to read:

"40-5-227. Filing and docketing of final orders -- orders effective as district court decrees. (1) An abstract of any final administrative order under this chapter may be filed in the office of the clerk of the district court of any county of Montana. ~~The~~ Upon the request of the department, the order, ~~if approved,~~ must be docketed in the judgment docket of the district court. The properly filed and docketed order has all the force, effect, and attributes of a docketed order or decree of the district court, including but not limited to lien effect and enforceability by supplemental proceedings, writs of execution, and contempt of court proceedings. A final administrative order of the department is effective and enforceable ~~to the same degree as a district court order,~~ without filing and docketing the order in the district court. CONTEMPT OF COURT PROCEEDINGS AND WRITS OF EXECUTION BASED ON THE ADMINISTRATIVE ORDER MAY NOT BE REQUESTED FROM THE DISTRICT COURT UNLESS THE ADMINISTRATIVE ORDER IS FIRST DOCKETED WITH THE DISTRICT COURT. THE ADMINISTRATIVE ORDER MAY NOT OPERATE AS A JUDGMENT LIEN, UNLESS THE ORDER IS FIRST DOCKETED WITH THE DISTRICT COURT OR A LIEN IS OTHERWISE PERFECTED UNDER THE LAWS OF THIS STATE, INCLUDING 40-5-248.

(2) A final administrative order that determines and sets periodic support payments in the absence of a district court order, when filed and docketed under this section, may be modified by a district court order only as to installments accruing after actual notice to the parties of any motion for modification. The standard for a modification is that set forth in 40-4-208.

(3) The department may issue a warrant for distraint based upon a properly filed and docketed order pursuant to 40-5-247."

Section 49. Section 40-5-232, MCA, is amended to read:

"40-5-232. Establishment of paternity -- notice of ~~paternity determination~~ parental responsibility -- contents. (1) When the paternity of a child has not been legally established under the provisions of Title 40, chapter 6, part 1, or otherwise, the department may proceed to establish paternity under the provisions of 40-5-231 through 40-5-237. An administrative hearing held under the provisions of 40-5-231 through 40-5-237 is a contested case within the meaning of 2-4-102 and is subject to the provisions of Title 2, chapter 4, except as otherwise provided in 40-5-231 through 40-5-237.

(2) It is presumed to be in the best interest of a child to legally determine and establish paternity. A presumption under this subsection may be rebutted by a preponderance of the evidence.

(3) In ~~any~~ a proceeding under 40-5-231 through 40-5-237, if ~~a person acknowledges paternity of a child in writing and the acknowledgment is filed with the department,~~ an alleged father consents in writing to entry of an order declaring the alleged father to be the legal father of a child, the department may enter an order establishing legal paternity. As a part of ~~a voluntary acknowledgment~~ a consent to entry of an order declaring paternity, the department shall provide information to the ~~parents~~ alleged father regarding the rights and responsibilities of ~~acknowledging~~ an alleged father consenting to entry of an order declaring paternity. ~~An acknowledgment~~ A consent to entry of an order declaring paternity is binding on a parent who executes it, whether or not the parent is a minor.

(4) Full faith and credit must be given to a determination of paternity made by any other state, whether presumed by law, established through voluntary acknowledgment, or established by administrative or judicial processes.

(5) The department shall commence proceedings to establish paternity by serving on an alleged father a notice of ~~paternity determination~~ parental responsibility. The department may not serve the notice unless it has:

(a) a sworn statement ~~from the child's mother~~ claiming that the alleged father is the child's natural father;

(b) evidence of the existence of a presumption of paternity under 40-6-105; or

(c) any other reasonable cause to believe that the alleged father is the child's natural father.

(6) Service on the alleged father of the notice of ~~paternity determination~~ parental responsibility must be made as provided in 40-5-231(2). The notice must include:

(a) an allegation that the alleged father is the natural father of the child involved;

(b) the child's name and place and date of birth;

(c) the name of the child's mother and the name of the person or agency having custody of the child, if other than the mother;

(d) the probable time or period of time during which conception took place;

(e) a statement that if the alleged father fails to timely deny the allegation of paternity, the question of paternity may be resolved against the alleged father without further notice;

(f) a statement that if the alleged father timely denies the allegation of paternity:

(i) the alleged father is subject to compulsory paternity blood testing;

(ii) a paternity blood test may result in a presumption of paternity; and

(iii) upon receipt of the paternity blood test results, if the alleged father continues to deny paternity, the alleged father may request the department to refer the matter to district court for a determination of paternity.

(7) The alleged father may file a written denial of paternity with the department within 20 days after service of the notice of ~~paternity determination~~ parental responsibility.

(8) When there is more than one alleged father of a child, the department may serve a notice of ~~paternity determination~~ parental responsibility on each alleged father in the same consolidated proceeding or in separate proceedings. Failure to serve notice on an alleged father does not prevent the department from serving notice on any other alleged father of the same child."

Section 50. Section 40-5-233, MCA, is amended to read:

"40-5-233. Establishment of paternity -- administrative hearing -- subpoena -- compulsory blood testing. (1) ~~When the department receives a timely written denial of paternity, it may order the alleged~~

~~father to appear for an administrative hearing. The hearing may be conducted by teleconferencing methods. If the testimony and other supplementary evidence demonstrate a reasonable probability that the alleged father had sexual intercourse with the child's mother during the probable time of the child's conception or if the evidence shows a probable existence of a presumption under 40-6-105, the department may issue a subpoena ordering the alleged father to submit to paternity blood testing. A reasonable probability of sexual intercourse during the possible time of conception may be established by affidavit of the child's mother.~~

(1) (a) Paternity blood testing may be requested by the alleged father, the mother, or the child through the child's custodian and may be made in conjunction with or in addition to a notice the department issues under 40-5-232. The request must be in writing and must be supported by a sworn statement of the requester that includes:

(i) an allegation of paternity and sufficient facts to establish a reasonable probability that the alleged father engaged in an act with the child's mother during the probable time of the child's conception that could have resulted in the child's conception; or

(ii) a denial of paternity and sufficient facts to establish a reasonable probability of the nonexistence of contact between the alleged father and the child's mother that could have resulted in the child's conception.

(b) If the department determines after a review of a sworn statement that there are sufficient facts to establish a reasonable probability of paternity or nonpaternity as claimed by the requesting party, the department shall issue a subpoena ordering the alleged father, the mother, or the child through the child's custodian to submit to blood testing.

(c) A pending request for blood testing under this section does not prevent the department from issuing a notice of parental responsibility under 40-5-232.

(d) Denial of a request for paternity blood testing under this subsection (1) is not a finding of nonpaternity and does not prevent the issuance of a notice under 40-5-232. A denial does not affect the completion of any pending action initiated under 40-5-232.

(2) (a) The department may order an alleged father to appear for an administrative hearing when:

(i) the department determines that the sworn statement provided in subsection (1) does not contain sufficient facts to issue a blood test subpoena and that additional examination of witnesses or evidence is necessary; or

(ii) the department receives a timely filed written denial of paternity in response to a notice under 40-5-232.

(b) The hearing must initially be conducted by teleconferencing methods and is subject to the provisions of the Montana Administrative Procedure Act. At the request of a party and upon a showing that the party's case was substantially prejudiced by the lack of an in-person hearing, the hearings officer shall, at the close of a teleconference hearing, grant a de novo in-person hearing.

(c) The department may issue a subpoena ordering the alleged father to submit to paternity blood testing if the testimony and other supplementary evidence demonstrate a reasonable probability:

(i) that the alleged father engaged in an act with the child's mother during the probable time of the child's conception that could have resulted in the child's conception; or

(ii) when the alleged father's paternity is presumed under 40-6-105, of the nonexistence of contact between the alleged father and the child's mother that could have resulted in the child's conception.

(d) For the purposes of this subsection (2), a reasonable probability of an act during the possible time of conception may be established by affidavit of the child's mother without need for the mother to appear at the hearing.

(3) Previous paternity actions under this part that did not result in a subpoena for paternity blood testing do not prevent the department from recommencing a paternity action if the department believes it can establish any of the factors listed in subsection (2)(c) or (2)(d).

~~(2)~~(4) When there is reasonable cause to suggest that a blood test sample of a person submitting to a blood test was not the sample of the alleged father, mother, or child, an additional hearing may be held. The scope of the hearing is limited to questions involving the blood drawing or the chain of custody at the blood drawing site. The ~~hearing~~ hearings officer may order retesting of any party.

~~(3)~~(5) If the department does not receive a timely filed written denial of paternity or if an alleged father fails to appear at a scheduled hearing or for a scheduled paternity blood test, the department may enter an order declaring the alleged father the legal father of the child. The order will take effect within 10 days after entry of the default unless the alleged father before the 10th day presents good cause for failure to make a timely denial or for failure to appear at the hearing or to undergo paternity blood testing. The department may not enter an order under this section if there is more than one alleged father unless the default applies to only one of them and all others have been excluded by the results of paternity blood testing. An order issued under the provisions of this section may be set aside as provided in 40-5-235(3).

~~(4)~~(6) If the rights of others and the interests of justice so require, the department may apply to any district court under the provisions of 2-4-104 for an order compelling an alleged father to submit to paternity blood testing. The court shall hear the matter as expeditiously as possible. If the court finds reasonable cause to believe that the alleged father is the natural or presumed father of the child, the court shall enter an order compelling the alleged father to submit to a paternity blood test. ~~As provided in subsection (1), reasonable~~ Reasonable cause may be established by affidavit of the child's mother."

Section 51. Section 40-5-235, MCA, is amended to read:

"40-5-235. Effect of order establishing paternity -- birth records -- relief from order. (1) An administrative order of the department declaring the paternity of a child, ~~docketed as provided in 40-5-227,~~ establishes the legal existence of the parent and child relationship for all purposes and confers or imposes all parental rights, privileges, duties, and obligations.

(2) Upon the request of the mother or father of ~~the~~ a child born in this state, the department shall prepare a substitute certificate of birth, if necessary, consistent with the administrative order. The substitute certificate of birth is subject to the provisions of 40-6-123, with references to "court" taken to mean "department".

(3) Except for an order based on a ~~voluntary acknowledgment of~~ consent to entry of an order declaring paternity, the department may set aside an administrative order establishing the paternity of a child upon the application of any affected party and upon a showing of any of the grounds and within the timeframes provided in Rule 60(b) of the Montana Rules of Civil Procedure.

(4) An order of the department under 40-5-232 through 40-5-235 may be reviewed under the provisions of Title 2, chapter 4, part 7."

Section 52. Section 40-5-236, MCA, is amended to read:

"40-5-236. Referral of paternity issue to district court -- record -- parties -- exclusion of other matters -- fees. (1) If the scientific evidence resulting from a paternity blood test does not exclude the alleged father and the alleged father continues to deny paternity, the alleged father shall file a written objection with the department within 20 days after service of the paternity blood test results. Upon receipt of the written objection, the department shall refer the matter to the district court for a determination based on the contents of the administrative hearing record and any further evidence that may be produced at trial. The matter must be heard by a judge sitting without a jury. Except as otherwise provided in 40-5-231 through 40-5-237, proceedings in the district court must be conducted pursuant to Title 40, chapter 6, part 1.

(2) The administrative record must include:

(a) a copy of the notice of ~~paternity determination~~ parental responsibility and the return of service of the notice;

(b) the alleged father's written denial of paternity, if any;

(c) the transcript of the administrative hearing;

(d) the paternity blood test results and any report of an expert based on the results; and

(e) any other relevant information.

(3) Upon filing of the record with the district court, the court acquires jurisdiction over the parties as if they had been served with a summons and complaint. The department shall serve written notice upon the alleged father, as provided in 40-5-231(2), that the issue of paternity has been referred to the district court for determination.

(4) In a proceeding in the district court, the department shall appear on the issue of paternity only. The court may not appoint a guardian ad litem for the child unless the court in its discretion determines that an appointment is necessary and in the best interest of the child. Neither the mother nor the child is a necessary party, but either may testify as a witness.

(5) No other matter may be joined with an action to determine the existence or nonexistence of the parent and child relationship under this section. The parties shall institute an independent action to address other issues, including visitation and custody.

(6) Except as provided in 25-10-711, the department is not liable for attorney fees, including fees for

attorneys appointed under 40-6-119, or fees of a guardian ad litem appointed under 40-6-110."

Section 53. Section 40-5-237, MCA, is amended to read:

"40-5-237. District court paternity proceedings -- objection to tests -- additional tests -- expert's report -- admissibility of evidence. (1) In a matter referred to the district court, if an alleged father objects to the procedures for or the results of a paternity blood test, the alleged father shall file a written objection with the court within 20 days after service of the notice required by 40-5-236(3). The court shall order an additional paternity blood test upon the alleged father's advance payment for additional testing if a written objection is timely filed or at the request of the department. An additional test must be performed by the same or another expert who is qualified in paternity blood testing. Failure of the alleged father to make a timely challenge is considered a waiver of any defense to the test results or test procedures, including the chain of custody.

(2) If an objection to the paternity blood test is not timely filed, the paternity blood test expert's completed and certified report of the results and conclusions of a paternity blood test is admissible as evidence without additional foundation testimony or other proof of authenticity and accuracy if the laboratory in which the expert performed the test is accredited for parentage testing by the American association of blood banks. Accreditation may be established by verified statement or reference to published sources. This subsection does not limit the right of a party to contest the identity of persons submitting to testing.

(3) In any hearing before the court or at trial, testimony relating to sexual intercourse of the mother with any person who has been excluded from consideration as a possible father of the child involved by the results of a paternity blood test is inadmissible in evidence.

(4) When a paternity blood test excludes an alleged father from possible paternity, the test is conclusive evidence of nonpaternity of the alleged father for all purposes in the district court."

Section 54. Section 40-5-263, MCA, is amended to read:

"40-5-263. Central clearinghouse -- interstate enforcement services -- powers and duties of the department. (1) The department shall establish a clearinghouse for the registration of all interstate IV-D cases referred to the department by other states. The clearinghouse shall serve as the central point for the receipt and dissemination of information regarding interstate enforcement requests, including but not limited to:

(a) petitions under the Revised Uniform Reciprocal Enforcement of Support Act, Uniform Reciprocal Enforcement of Support Act, or the Uniform Interstate Family Support Act; and

(b) wage withholding requests under part 4 of this chapter.

(2) (a) A case must be referred to the clearinghouse to be processed as a IV-D case and receive the benefits of IV-D status and clearinghouse services.

(b) The clearinghouse may accept any interstate IV-D referral made by interstate application or by

petition under the Revised Uniform Reciprocal Enforcement of Support Act or the Uniform Interstate Family Support Act. An application must be made on forms prescribed by the department.

(3) Upon certification by the initiating state that a case filed in the registry of foreign support orders, including a petition under the Uniform Reciprocal Enforcement of Support Act, the Revised Uniform Reciprocal Enforcement of Support Act, or the Uniform Interstate Family Support Act, is eligible for IV-D services and that the obligor resides, has property, or derives income in this state, the department may: ~~establish or enforce a child support obligation by any appropriate statute, including the remedies in this chapter~~

(a) proceed under Title 40, chapter 5, part 1; or

(b) pursue any other remedy available to it to establish or enforce a support order.

(4) If necessary, the department shall establish the paternity of the child.

(5) The clearinghouse shall:

(a) review and acknowledge receipt of any interstate IV-D referral;

(b) request missing information from the initiating state;

(c) determine appropriate enforcement remedies and forward the referral to the appropriate enforcement unit;

(d) provide status updates to the initiating state, including the location of the responsible enforcement unit;

(e) locate an obligor and the obligor's assets, if necessary; and

(f) initiate a IV-D referral if services are provided by the department to a resident of this state and the obligor resides outside the state.

(6) If the department is providing support enforcement services to a resident of this state, the director or the director's designee may certify any interstate petition, application, and referral, including a petition under part 1 of this chapter.

(7) A lien created by operation of law or issued by order of a court or IV-D agency in another state to enforce a support order may, at the request of the other IV-D agency, be registered with the department. Upon registration, the lien applies to any of the obligor's real and personal property located in this state with the same force and effect as a lien established under 40-5-248. At the request of the other IV-D agency, a registered lien may be enforced by the department using any remedy available to enforce a support lien under 40-5-248."

Section 55. Section 40-5-264, MCA, is amended to read:

"40-5-264. Cooperative agreements. (1) The department may enter into cooperative agreements with any person, firm, corporation, association, political subdivision, Indian tribe or tribal organization as

defined in 25 U.S.C. 450b, or department of this state as a cooperating contractor to provide enforcement services.

(2) A cooperating contractor:

(a) shall act as an independent support enforcement contractor if the cooperating contractor provides enforcement services; and

(b) may pursue any remedy available to the department, as limited by the terms of the cooperative agreement.

(3) The department may refer an enforcement case to a cooperating contractor in the county where the obligor resides."

Section 56. Section 40-5-271, MCA, is amended to read:

"40-5-271. Registration of support orders. (1) The department ~~shall establish and maintain a support order registry.~~

~~(2) The registry must contain the support orders issued by the department.~~

~~(3) In a IV-D case, the department shall, upon the request of the obligor or the obligee, or may register a support order of a district court of this state or a support order of a court or administrative agency of another state with jurisdiction to enter the order. A certified copy of the order to be registered must accompany the written request for registration.~~

~~(4) Upon registration, the support order must be treated in the same manner and have the same effect as a support order issued by the department, and an abstract of the order may be filed under the provisions of 40-5-227. Review of the order under 40-5-272 is available only when the department is providing child support enforcement services for the order.~~ may, for the purpose of review and modification proceedings under 40-5-272 and 40-5-273, register support orders issued by a district court of this state or by a court or administrative agency of another state. Registration of the order under this section does not confer jurisdiction for any purpose other than for the review and modification process.

(2) When the department conducts review and modification proceedings, the department shall give the parties notice and opportunity to contest registration of the order. A party seeking to vacate the registered order has the burden of proving that the court or agency issuing the order:

(a) did not have jurisdiction to enter the order;

(b) did not have personal jurisdiction over the party; or

(c) did not give the party reasonable notice and opportunity to be heard before the order was entered.

(3) (a) As an alternative to any other registration process or remedy available for the enforcement of a support order issued by a court or agency in another state, the department may register the support order under this subsection (3).

(b) Registration under this subsection (3) is only for the purpose of enforcement and does not confer jurisdiction for any other purpose such as visitation, custody, or paternity disputes.

(c) If an order is registered for enforcement under this subsection (3), the department shall notify the parties to the order of the registration. A copy of the registered order must be included with the notice. The notice must inform the parties:

(i) of the amount of any alleged arrearage as of the date of the notice;

(ii) that a party may request a hearing to vacate the registration or to assert defense to any alleged arrearage for any reason set out in subsection (3)(e);

(iii) that a hearing to contest the validity or enforcement of the order must be requested within 20 days after service of the notice; and

(iv) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearage and will preclude further contest of the order with respect to any matter that could have been asserted at the hearing.

(d) A party seeking to contest the validity or enforcement of a registered order shall request a hearing within 20 days after service of the notice of registration. If a party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law. If a party timely requests a hearing to contest the validity or enforcement of the order, the department shall schedule the matter for hearing.

(e) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(i) the court or agency issuing the order did not have subject matter jurisdiction to enter the order or lacked personal jurisdiction over the contesting party;

(ii) the court or agency issuing the order did not give the party reasonable notice and opportunity to be heard before the order was entered;

(iii) the order was obtained by fraud;

(iv) the issuing court or agency has stayed enforcement of the order pending appeal;

(v) the order has been vacated, suspended, or modified by a later order;

(vi) there is a defense under the law of this state to the remedy sought; or

(vii) the statute of limitations precludes enforcement of some or all of the arrearages.

(f) If the contesting party does not establish a defense under subsection (3)(e) to the validity or enforcement of the order, the department shall issue an order confirming the order. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of the registration. A confirmed order is enforceable as of the date of confirmation in the same manner as an order issued by

the department or a district court of this state.

(g) In a proceeding for arrears, the statute of limitations under the laws of this state or of the issuing state, whichever is longer, applies.

(h) Hearings under this subsection (3) are subject to the provisions of the Montana Administrative Procedure Act and must initially be conducted by teleconferencing methods. At the request of a party and upon a showing that the party's case was substantially prejudiced by the lack of an in-person hearing, the hearings officer shall, at the close of a teleconference hearing, grant a de novo in-person hearing."

Section 57. Section 40-5-274, MCA, is amended to read:

"40-5-274. Child support payments to follow the child. (1) A support order issued or modified under this part must contain a provision requiring the child support obligation to be paid to:

(a) the legal custodian of the minor child;

(b) ~~(i) any other person, organization, or agency having legal physical custody of the minor child or collecting child support on behalf of the minor child under a legal assignment of rights~~ a person, organization, or agency to which the legal custodian voluntarily or involuntarily relinquishes physical custody of the child; or

~~(ii) the court for the benefit of the minor child;~~

(c) ~~any other person or agency designated as caretaker of the minor child by agreement of the legal custodian;~~ or to any other person, organization, or agency entitled by law, assignment, or similar reason to receive or collect the child support obligation.

~~(d) any assignee or other person, organization, or agency authorized to receive or collect child support.~~

(2) If the department is providing services under Title IV-D of the Social Security Act, payment of support must be made through the department for distribution to the person, organization, or agency entitled to the payment.

~~(2)~~(3) An order that omits the provision required by subsection (1) is subject to the requirements of subsection (1) without need for an amendment to the order or for any further action by the department."

Section 58. Section 40-5-302, MCA, is amended to read:

"40-5-302. Purpose -- applicability. (1) The purpose of this part is to provide a direct method of deducting money from a person's income for the payment of child support ~~if that person has been delinquent in the payment of court-ordered child support.~~

(2) Income withholding under this part is available without amendment of the support order or further action by a district court or other entity, even though the support order did not provide for withholding

or provided for other payment arrangements."

Section 59. Section 40-5-303, MCA, is amended to read:

"40-5-303. Petition for income deduction -- who may initiate. (1) If an obligor is exempted from immediate income withholding under 40-5-315 or is not otherwise subject to an income-withholding order, the obligor's income may be withheld for the payment of child support beginning on the day the obligor becomes delinquent in the payment of support.

~~(2) A petition for an income deduction~~ Income withholding for the payment of ~~delinquent~~ child support payments may be ~~made~~ initiated by:

~~(1)~~(a) the person named as the recipient of the child support payments in the child support order;

~~(2)~~(b) the child or the guardian of the child named in the child support order; or

~~(3)~~(c) the department of public health and human services.

(3) (a) At the request of an initiating party who determines that an obligor is delinquent, the ~~clerk of~~ DISTRICT court shall issue ~~an~~ A TEMPORARY order for income deductions provided for in 40-5-308 for immediate service upon the obligor's payor or payors. The order is limited to current support unless modified to include arrears as provided in 40-5-308.

(b) At the same time an income deduction order is issued, the requesting party shall notify the obligor as provided in 40-5-305 that income deductions have been initiated.

(4) Deductions under this section for current support may be terminated only if:

(a) the district court determines after a hearing that the obligor was not delinquent when the deduction order was issued;

(b) the obligation to pay support has terminated and all delinquencies are paid in full; or

(c) the department of public health and human services has superseded the deduction order under authority of Title 40, chapter 5, part 4.

(5) As used in this part, the following definitions apply:

(a) "Employer" includes a payor.

(b) (i) "Income" means any form of periodic payment to a person, regardless of source, including commissions, bonuses, workers' compensation, disability benefits, payments under a pension or retirement program, interest and earnings, and wages.

(ii) Income does not include:

(A) an amount, other than creditor claims, required by law to be withheld, including federal, state, and local taxes and social security; or

(B) an amount exempted from judgment, execution, or attachment by federal or state law.

(c) "Payor" means any entity that pays income to an obligor on a periodic basis and includes any person, firm, corporation, association, employer, trustee, political subdivision, or state agency or an agent of any one of them, subject to the jurisdiction of the courts of this state under Rule 4B of the Montana Rules of Civil Procedure."

Section 60. Section 40-5-304, MCA, is amended to read:

"40-5-304. When child support payments considered delinquent. (1) Nonpayment of child support required by ~~any~~ a district court or administrative order ~~of a district court~~ or by a similar order of a court of another jurisdiction becomes delinquent under this part ~~when the amount owed is equal to 3 months of child support payments~~ ~~8 7 8~~ working days after the last day of the month in which the payment is due.

(2) Child support payments may be considered delinquent under this part only in reference to a court or administrative order setting child support payments.

(3) ~~In the case of support orders not subject to immediate income withholding under 40-5-315, including cases in which the court or administrative authority has made a finding of good cause or alternative arrangement, the income of the obligor is subject to withholding under this part beginning on the date on which the obligor is found to be delinquent in the payment of support due under a support order in an amount equal to at least 3 months' support payments. Intervening agreements or orders establishing a schedule for payment of delinquent support do not prevent income withholding under this part. For the purposes of this section, "alternative arrangement" has the meaning provided in 40-5-315 (3)(b)."~~

Section 61. Section 40-5-305, MCA, is amended to read:

"40-5-305. Notice. ~~On petition for income deductions for payment of delinquent child support, the district court shall cause notice to be served upon the obligor, stating that if the delinquency is not discharged within 15 days, the court will order an income deduction for the payment of the delinquent child support and for the payment of current child support as it becomes due and payable. The notice shall also state that the obligor may contest the allegation that child support payments are delinquent.~~

(1) A party initiating income deductions under this part shall serve the obligor with notice if:

(a) an order for immediate income deductions is issued because of a delinquency;

(b) additional delinquencies accrued subsequent to the issuance of an income-deduction order and the requesting party proposes to add those delinquencies to an existing order for income deductions;

(c) immediate withholding under 40-5-315 or delinquency withholding under 40-5-303 has commenced for current support and there are delinquencies due for a period prior to issuance of the income-deduction order that the requesting party proposes to add to the deduction order; or

(d) the obligation to pay current support has terminated and there are support arrears still owing for the period prior to termination.

(2) The notice must contain a statement:

(a) of the amount subject to withholding, including a computation showing the period and total amount of the delinquency as of the date of the notice;

(b) that withholding applies to all current and subsequent payors;

(c) of the procedures to follow if the obligor desires to contest income withholding on the grounds that the initiation of withholding or the modification of an existing order for deductions is improper or that the amount to be deducted is in error due to a mistake of fact; and

(d) of the period of time within which the obligor is required to file a request for hearing and that failure to file the hearing request within the time limit will result in an income-deduction order being served upon the payor for the amount stated in the notice.

(3) The notice must be served upon the obligor personally or by certified mail."

Section 62. Section 40-5-306, MCA, is amended to read:

"40-5-306. Discharge of delinquency. ~~If~~ (1) In a case in which only arrears are owed, if the obligor pays the total amount of child support ~~due and payable~~ in arrears within ~~the~~ 15 days after service of the notice specified in 40-5-305, ~~no~~ an order for deduction may not issue. This discharge of delinquency does not affect or otherwise limit any action as a result of any subsequent delinquencies.

(2) If there is a current support obligation, payment of arrears after service of the ~~order~~ NOTICE OR AFTER SERVICE OF THE INCOME-DEDUCTION ORDER ON THE PAYOR does not prevent the issuance OR CONTINUANCE of an income-deduction order for the payment of current support."

Section 63. Section 40-5-307, MCA, is amended to read:

"40-5-307. Delinquency of child support denied -- hearing. If, within 15 days after service of a notice under 40-5-305, the obligor responds to the notice and denies that ~~child support payments are delinquent~~ income withholding initiated because of a delinquency is proper or denies that the amount or arrearages stated in the notice is owing, the district court shall hold a hearing to determine whether ~~or not there is a deficiency in child support payments sufficient to be delinquent under 40-5-304~~ income withholding will take place."

Section 64. Section 40-5-308, MCA, is amended to read:

"40-5-308. Order for deduction from income for child support payments. (1) ~~If the obligor fails to respond to notice within 15 days or if the district court determines that the obligor is delinquent in~~

~~payment of child support as provided in 40-5-304, the district court shall issue an order to the obligor's employer ordering a deduction from the obligor's wages or salary for the payment of child support. The court may authorize the requesting party to continue an immediate income-deduction order issued because of a delinquency or may modify an existing deduction order if:~~

- (a) the obligor fails to timely respond to the notice provided under 40-5-305;
 - (b) the obligor fails to appear at a scheduled hearing;
 - (c) the court determines that the obligor is delinquent in the payment of support; or
 - (d) the court determines there are new or additional delinquencies to be added to an existing deduction order.
- (2) The order must state:
- (a) the action involved;
 - (b) the total amount of back child support due and the amount of each court-ordered installment of child support;
 - (c) the amount to be deducted from the ~~wages or salary of the obligor each pay period~~ obligor's income and the amount, if any, allowed to the ~~employer~~ payor under 40-5-309(2) as a fee for handling the deduction;
 - (d) the length of time the order is to remain in effect, if ascertainable; and
 - (e) the name and address of the ~~clerk of court~~ person or entity to whom the deduction is to be paid by the ~~employer~~ payor."

Section 65. Section 40-5-309, MCA, is amended to read:

"40-5-309. Amount to be deducted from income. (1) (a) The amount of money to be deducted each pay period from the obligor's income is:

- (i) (A) the amount of money necessary to pay current installments of child support as they become due and payable; plus
- (B) the amount of money that, when deducted in equal amounts each pay period, will pay off all outstanding child support payments delinquent within 2 years; or
- (ii) not less than 25% of the obligor's disposable earnings.

(b) If withholding is annualized, when deducted in equal amounts, the amount withheld each pay period must be sufficient to pay all installments due in a 12-month period under the order to withhold.

(2) The district court may allow a fee ~~of~~ not to exceed \$5 per deduction, which the ~~employer~~ payor may deduct from the obligor's ~~wages or salary~~ income for the expense of administering the deduction.

(3) The total amount to be deducted under subsections (1) and (2) may not exceed the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. 1673(b), as amended.

(4) Except as provided in 40-5-315, the child support income deduction must cease when there is no past-due child support owing, unless the district court orders continued income deductions for payment of child support installments as they become due and payable."

Section 66. Section 40-5-310, MCA, is amended to read:

"40-5-310. Priority of income deduction. An order for the deduction of income for the payment of ~~delinquent~~ child support payments takes precedence over any:

- (1) assignment of ~~wages or salary~~ income;
- (2) voluntary deductions from the obligor's ~~wages or salary~~ income; and
- (3) other court-ordered garnishment of ~~wages or salary~~ income."

Section 67. Section 40-5-312, MCA, is amended to read:

"40-5-312. Duties of ~~employers~~ payors. (1) ~~An employer~~ A payor who has been served with an order for deduction under this part shall deduct the amount designated in the order beginning not later than the first pay period that occurs after 14 days from the service of the order. The ~~employer~~ payor shall, within ~~10~~ 7 working days of the date the obligor is paid, promptly pay the deducted amount as directed by the order. The ~~employer~~ payor shall include with the payment a statement indicating the date the amount was deducted from the obligor's ~~wages or salary~~ income.

(2) Whenever ~~an employer~~ a payor receives more than one ~~wage~~ deduction order from the same district court, the ~~employer~~ payor may combine all amounts deducted into a single payment for that month, with the portion that is attributable to each obligor separately designated.

(3) Whenever there is more than one deduction order against a single obligor the ~~employer~~ payor shall:

(a) honor all ~~wage~~ deduction orders to the extent that the total amount deducted from the obligor's ~~wages or salary~~ income does not exceed the limits set in 40-5-309; and

(b) comply with the orders in the sequence in which they were served upon the ~~employer~~ payor except for ~~income withholding~~ income-withholding orders issued by the department of public health and human services. Under 40-5-423, orders issued by the department have priority over all other orders without regard to the sequence in which they were served.

(4) The ~~employer~~ payor shall promptly notify the clerk of the district court that issued the deduction order of the termination of the obligor's employment and provide the obligor's last-known address and the name and address of the obligor's new ~~employer~~ payor, if known."

Section 68. Section 40-5-313, MCA, is amended to read:

"40-5-313. Obligor rights protected -- penalties. (1) An employer may not discharge, discipline, or refuse to hire a person because:

- (a) the person has a child support obligation;
- (b) a withholding order has been issued for the person's ~~wages or salary~~ income; or
- (c) proceedings have been initiated under this part.

(2) An employer who violates the provisions of this section may be fined not more than \$100."

Section 69. Section 40-5-314, MCA, is amended to read:

"40-5-314. Civil liability for failure to comply with wage deduction order. (1) ~~An employer~~ A payor who knowingly fails to deduct support money from the obligor's ~~wages or salary~~ income and remit the money ~~to the district court~~ when ordered to do so under this part is liable to the obligee of the support order for any amount up to the accumulated amount the ~~employer~~ payor should have deducted and remitted.

(2) ~~An employer~~ A payor who complies with a deduction order under this part is not liable to the obligor or to any other person claiming rights derived from the obligor for wrongful deductions."

Section 70. Section 40-5-315, MCA, is amended to read:

"40-5-315. Immediate income deductions. (1) Notwithstanding any provision in this part requiring a delinquency as a prerequisite to an order for income deductions, except as provided in subsection (2), the ~~salaries and wages~~ income of a person obligated to pay child support by an order of a district court issued after October 1, 1991, ~~are~~ is subject to an immediate deduction order under 40-5-308 on the effective date of the order, regardless of whether there is a delinquency.

(2) An obligor's ~~salaries and wages are~~ income is not subject to deduction under this section in any case in which the district court finds:

- (a) that there is good cause not to require immediate deduction; or
- (b) that there is an alternative arrangement between the parties for the payment of support that provides sufficient security to ensure compliance with the arrangement.

(3) (a) For the purposes of subsection (2), a finding of good cause not to require immediate deduction must, at a minimum, be based on:

- (i) a written determination and explanation by the district court as to why implementation of immediate

deductions is not in the best interests of the child; and

(ii) in cases involving the modification of support orders, proof of timely payment of previously ordered support.

(b) As used in subsection (2)(b), "alternative arrangement" means a written agreement that is signed by the obligor and obligee and, in cases in which there is an assignment of support rights under 53-2-613, signed by the department of public health and human services; and that has been approved and entered into the record by the district court that issued or modified the support order.

(4) The clerk of court shall administer immediate income deductions under this section. The clerk of court, at any time after docketing the support order or modification of a support order, at the request of the obligee, and without need for amendment to the support order or for any further action by the district court, shall issue the order for income deductions provided for by 40-5-308 for service upon the obligor's ~~employer~~ payor. The deduction order must direct the ~~employer~~ payor to promptly deliver the amount deducted to the ~~clerk of court~~ department of public health and human services as provided in [section 5] for distribution to the obligee.

(5) ~~Wage deductions~~ Deductions under this section may be terminated only when:

(a) the obligation to pay support has terminated and all arrearages are paid in full;

(b) the obligor requests termination and the obligee and obligor have entered into an alternative arrangement as set forth in subsection (2)(b); or

(c) the department of public health and human services has superseded the deduction order under authority of Title 40, chapter 5, part 4.

(6) If a delinquency occurs subsequent to issuance of an immediate deduction order or if arrearages occur prior to beginning the deductions, the arrearages may be added to the deduction order only after compliance with the notice of hearing requirements of 40-5-305.

(7) (a) After October 1, 1991, whenever a support order is registered as provided by 40-5-184 or other law, the support order is subject to immediate orders to deduct income under this section.

(b) Withholding income under this section must be imposed when an obligor has ~~wages or salaries~~ income derived from within this state and the support order was issued in another state.

(8) This section applies only to support orders that are not being enforced by the department of public health and human services under Title IV-D of the Social Security Act. The withholding of income for support orders being enforced by the department is provided for in Title 40, chapter 5, part 4, and those procedures, if applicable, supersede the provisions of this section."

Section 71. Section 40-5-403, MCA, is amended to read:

"40-5-403. Definitions. As used in this part, the following definitions apply:

(1) "Alternative arrangement" means a written agreement signed by the obligor and obligee, and signed

by the department in the case of an assignment of rights under 53-2-613, that has been approved and entered in the record of the court or administrative authority issuing or modifying the support order.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Employer" includes a payor.

~~(3)~~(4) "Income" means any form of periodic payment to a person, regardless of source, including commissions, bonuses, workers' compensation, disability payments, payments under a pension or retirement program, interest, and earnings and wages. However, income does not include:

(a) any amount required by law to be withheld, other than creditor claims, including federal, state, and local taxes and social security; and

(b) any amounts exempted from judgment, execution, or attachment by federal or state law.

~~(4)~~(5) "Obligee" means either a person to whom a duty of support is owed or a public agency of this or another state to which a person has assigned the right to receive current and accrued support payments.

~~(5)~~(6) "Obligor" means a person who owes a duty to make payments under a support order.

~~(6)~~(7) "Payor" means any payor of income to an obligor on a periodic basis and includes any person, firm, corporation, association, employer, trustee, political subdivision, state agency, or any agent thereof, who is subject to the jurisdiction of the courts of this state under Rule 4B of the Montana Rules of Civil Procedure.

~~(7)~~(8) "Support order" means an order of the district court of the state of Montana, an order of a court of appropriate jurisdiction of another state, an administrative order established pursuant to proceedings under part 2 of this chapter, or an order established by administrative hearing process of an agency of another state with functions similar to those of the department set forth in part 2 of this chapter, that provides a set and determinable amount for temporary or final periodic payment of funds for the support of a child. Support order further includes the following:

(a) an order for reimbursement of public assistance money paid by a public agency for the benefit of a minor child;

(b) an order for maintenance to be paid to a former spouse when the former spouse is the custodial parent of a child for whom child support is ~~awarded under the same order~~ collected under this chapter; and

(c) an order requiring payment of interest due on unpaid judgments for child support."

Section 72. Section 40-5-404, MCA, is amended to read:

"40-5-404. Other remedies available. (1) (a) The remedies provided in this part are in addition to and not in substitution for any other remedy that may otherwise be available to the department, and the department may simultaneously pursue other remedies to enforce a support obligation or to collect support arrearages.

(b) If the department is enforcing a support order of another state, an Indian tribe, or a foreign country under this part, the department may proceed under Title 40, chapter 5, part 1.

(2) (a) The department may enforce a support order of another state, an Indian tribe, or a foreign country under this part without registration of the support order under 40-5-180, 40-5-271, or any other law providing for registration of support orders.

(b) If the department is enforcing an order under subsection (2)(a), in addition to those defenses available under this part, a party may contest the validity of the support order by proving any defense contained in 40-5-190."

Section 73. Section 40-5-412, MCA, is amended to read:

"40-5-412. Delinquency income withholding. (1) (a) In the case of support orders not subject to immediate income withholding under 40-5-411, including cases in which the court or administrative authority has made a finding of good cause or determines that an alternative arrangement exists, the income of the obligor is subject to withholding under this part beginning on the ~~date on which the obligor is found to owe unpaid support under the support order in an amount equal to or in excess of 1 month's support payment~~ day the obligor becomes delinquent in the payment of support. ~~Intervening agreements or orders establishing a schedule for payment of delinquent support do not prevent income withholding under this part.~~

(b) For purposes of this section, an obligor becomes delinquent 8 working days after the last day of the month in which the payment is due.

(c) Agreements or orders establishing a schedule for payment of delinquent support do not prevent income withholding under this part.

(2) (a) If the department determines that an obligor is delinquent, the department may immediately send an order to withhold income to any payor. The order must be limited to current support unless modified to include arrears as provided in 40-5-413.

(b) At the same time an order to withhold income is sent to a payor, the department shall notify the obligor as provided in 40-5-413 that income withholding has been initiated.

~~(2)~~(3) Notwithstanding the provisions of subsection (1), income withholding must be initiated, without regard to whether there is ~~an arrearage~~ a delinquency, on the earlier of:

(a) the date the obligor requests that withholding begin; or

(b) at the request of the obligee if the obligor is found, after an opportunity for hearing under 40-5-414, to be delinquent under the terms of an alternative arrangement for the payment of support.

~~(3)~~(4) To accomplish the purpose of subsection (1), the department shall monitor all support payments not otherwise subject to immediate withholding. To facilitate monitoring, the department by written notice to the obligor may direct an obligor ~~who does not owe unpaid child support equal to or in excess of 1 month's support payment~~ to pay all support through the department, notwithstanding a court order directing payments to be made to the obligee or clerk of court.

~~(4)~~(5) The only basis for contesting withholding under this section is a mistake of fact, which includes a mistake:

- (a) concerning the obligor's identity;
 - (b) concerning the existence of the support obligation;
 - (c) concerning the amount of support to be paid;
 - (d) in the determination that the ~~delinquent support amounts owed are equal to or greater than 1 month's support payment~~ obligor is delinquent in the payment of support;
 - (e) in computation of delinquent support amounts owed; or
 - (f) in the allegation that the obligor is in default of an alternative agreement.
- (6) A mistake of fact under subsection (5) does not include mistakes relating to issues of paternity or establishment of custody and visitation."

Section 74. Section 40-5-413, MCA, is amended to read:

"40-5-413. Notice of intent to withhold income. (1) ~~Prior to service of an initial order or a modification of an existing order on the payor under 40-5-415, the~~ The department shall serve upon the obligor with a notice ~~of the intended action when~~ if:

- (a) income withholding is initiated ~~under 40-5-412~~ because of a delinquency;
 - (b) additional arrearages ~~have~~ accrued subsequent to the issuance of an order to withhold and the department proposes to add those arrearages to ~~the~~ an existing withholding order; or
 - (c) immediate withholding or delinquency withholding has commenced for current support and there are arrearages due for a period prior to entry of the order to withhold that the department proposes to add to the withholding order.
- (2) The notice must contain a statement:
- (a) of the amount ~~to be withheld~~ subject to withholding, including a computation showing the period and total amount of the arrearages as of the date of the notice;
 - (b) that withholding applies to all current and subsequent payors;
 - (c) ~~of the obligor's right to a hearing under 40-5-414 to contest the initiation of income withholding or modification of an existing order on the ground that the intended action is not proper because of mistake of fact, as provided in 40-5-412(4) of the procedures to follow if the obligor desires to contest income withholding on the grounds that the initiation of withholding or the modification of an existing withholding order is improper or that the amount to be withheld is in error due to a mistake of fact, as provided in 40-5-412;~~

(d) of the period of time within which the obligor ~~must~~ is required to file a request for a hearing and that failure to file a request ~~the hearing~~ within the time limit will result in income withholding orders being served upon the payor for the amount stated in the notice; and

(e) in those cases in which withholding is being initiated at the request of an obligee without regard to whether there is an arrearage as provided in 40-5-412~~(2)~~(3), a statement that the obligor can require the obligee to appear and show proof that the obligor is not meeting the terms of the alternative arrangement.

(3) The notice must be served upon the obligor personally or by certified mail."

Section 75. Section 40-5-414, MCA, is amended to read:

"40-5-414. Hearing. (1) (a) To contest the withholding of income initiated ~~under 40-5-412~~ because of a delinquency or the modification of an existing order to withhold, an obligor may within 10 days of being served with notice of intent to withhold income under 40-5-413 file with the department a written request for an administrative hearing to be held pursuant to the contested case provisions of Title 2, chapter 4, part 6.

(b) The obligor shall include with the hearing request a statement of one or more of the grounds for contesting income withholding provided in 40-5-412. If the hearing request fails to include that statement, the hearings officer may deny the hearing for failure to state an issue upon which a hearing may be granted.

(2) Venue for the administrative hearing may be in the county where the obligor resides if the obligor resides in this state, the county in which the payor or the payor's agent is located, or the county in which the department or any of its regional offices is located.

(3) The ~~administrative~~ hearing must initially be held by teleconferencing methods ~~unless the obligor or the department expressly requests an in-person hearing before the hearings examiner~~ and is subject to the Montana Administrative Procedure Act. At the request of a party ~~and~~ OR upon a showing that the party's case was substantially prejudiced by lack of an in-person hearing, the hearings officer shall grant a de novo in-person hearing.

(4) If the obligor ~~requests~~ files a timely request for a hearing: ~~within the 10-day period:~~

~~(a)~~(A) that includes a statement showing a probable mistake of fact, the initiation of delinquency income withholding by the department and the modification of an existing withholding order ~~must~~ may be stayed upon written request of the obligor until conclusion of the hearing or the date of the hearing if the obligor fails to appear at the scheduled hearing. However, ~~in a proceeding to initiate income withholding,~~ if the obligor is only contesting an arrearage amount and is not contesting withholding for current support, income withholding for current support is not stayed. In a proceeding to modify an existing order, income withholding under the existing order to withhold is not stayed.

~~(b) the department shall, within 45 days of the service of the notice of intent to withhold income, inform the obligor of the hearing results concerning whether income withholding will take place.~~

(B) UNLESS GOOD CAUSE IS FOUND, THE DEPARTMENT SHALL, WITHIN 60 DAYS OF

RECEIPT OF A REQUEST FOR A HEARING, CONDUCT A HEARING. UNLESS GOOD CAUSE IS FOUND, WITHIN 60 DAYS AFTER A HEARING IS HELD, ANY POST-HEARING BRIEFS ARE RECEIVED, AND ALL EVIDENCE HAS BEEN PROVIDED TO THE DEPARTMENT CONCERNING A NOTICE OF INTENT TO WITHHOLD INCOME, THE DEPARTMENT SHALL INFORM THE OBLIGOR WHETHER INCOME WITHHOLDING MUST TAKE PLACE.

(5) The department ~~shall issue an order to~~ may continue an order to withhold income issued because of a delinquency or ~~a modified~~ may modify an existing order to withhold ~~in accordance with 40-5-415~~ if:

(a) the obligor fails to file a timely written request for hearing ~~with the department within the specified 10-day period~~ that includes the statement showing a mistake of fact;

(b) the obligor fails to appear at a scheduled hearing;

(c) the hearings examiner determines from the evidence that the obligor ~~owes unpaid support equal to or in excess of 1 month's support obligation and the amount of arrearages owing is determined and adjudged to be a fixed and certain sum~~ is delinquent in the payment of support;

(d) there is an existing order to withhold and if the hearings examiner determines from the evidence that the obligor owes new or additional amounts in arrears; or

(e) in cases in which income withholding is being initiated at the request of an obligee without regard to whether there is an arrearage, the hearings examiner determines from the evidence that the obligor did not meet the terms of the alternative arrangement.

(6) For purposes of the hearing process, arrearages of support must be computed on the basis of the amount owed and unpaid on the date on which the obligor was served with the notice of intent to withhold income. When ~~the department is enforcing a current support obligation~~ income withholding is initiated because of a delinquency, payment of the arrearage after service of the notice or after service of an order to withhold on a payor is not a basis for not initiating or continuing income withholding. WHENEVER THE NOTICE OF INTENT TO WITHHOLD INCOME IS ISSUED BECAUSE AN ARREARAGE HAS ACCRUED OR ADDITIONAL INCOME IS BEING WITHHELD TO SATISFY ADDITIONAL ARREARAGES, UNLESS GOOD CAUSE IS FOUND, WITHIN 60 DAYS AFTER A HEARING IS HELD, ANY POST-HEARING BRIEFS ARE RECEIVED, AND ALL EVIDENCE HAS BEEN PROVIDED, THE DEPARTMENT SHALL INFORM THE OBLIGOR WHETHER INCOME WITHHOLDING MUST TAKE PLACE.

~~(7) In a case initiated because an arrearage has accrued or because additional income is being withheld to satisfy additional arrearages, the obligor, within 45 days of service of the notice of intent to withhold income, must be informed of the hearing decision on whether income withholding will take place.~~

~~(8)~~(7) If the obligor fails to request a hearing within 10 days after service of the notice of intent to withhold or fails to appear at a scheduled hearing or if the hearings examiner determines that the obligor owes ~~a combination of unpaid support equal to or in excess of 1 month's support obligation~~ unpaid support or determines that a modification of an existing order is proper, the department shall ~~proceed with the intended action~~ issue an order to withhold income in accordance with 40-5-415."

Section 76. Section 40-5-421, MCA, is amended to read:

"40-5-421. Duties of payor. (1) A payor who has been served with an order to withhold and deliver income shall deduct the amount designated in the order beginning not later than the first pay period that occurs after ~~14 days from the~~ service of the order. The payor shall, within ~~10~~ 7 working days of the date the obligor is paid, promptly deliver the amount withheld to the department as directed by the order or in accordance with any subsequent modification of the order received from the department. The payor shall include with the payment a statement indicating the date the amount was withheld from the obligor's income.

(2) Whenever the payor is obligated to withhold income for more than one obligor, the payor may combine all amounts withheld into a single payment for that month with the portion ~~thereof which~~ of the withholding that is attributable to each obligor separately designated.

(3) Whenever there is more than one order for withholding against a single obligor, the payor ~~must~~ shall comply with the orders in the sequence in which they were served upon the payor and ~~must~~ shall honor all withholding orders to the extent that the total amount withheld from the obligor's wages or salary does not exceed the limits set in 40-5-416.

(4) The payor ~~must~~ shall promptly notify the department of the termination of the obligor's employment or other source of income and provide the obligor's last-known address and the name and address of the obligor's new employer or other source of income, if known to the payor."

Section 77. Section 40-5-423, MCA, is amended to read:

"40-5-423. Priority of income withholding. An order to withhold and deliver income under this part takes priority over any:

- (1) wage or income deduction order under any other state law and any income-withholding order issued in another state and sent to a payor in this state;
- (2) voluntary or involuntary assignment of wages;
- (3) other voluntary deductions from the obligor's income;
- (4) levies, writs of execution, or garnishments of the obligor's income; and
- (5) any other claims by creditors."

Section 78. Section 40-5-443, MCA, is amended to read:

"40-5-443. Payors to provide information -- exemption from liability. (1) For the purposes of this part, upon written request by the department or by another IV-D agency, a payor or former payor and any labor union of which the obligor or obligee is or may have been a member shall provide the ~~department~~ requester with the following information, if known, regarding the obligor or obligee:

- (a) last-known residential address;

- (b) social security number;
- (c) dates of employment or union membership;
- (d) amounts of wages, salaries, commissions, contract proceeds, and other earnings or amounts paid;
- (e) whether health insurance coverage is or was available through the payor or union and, if so:
- (i) the name of the insurer or health care provider;
- (ii) the policy numbers or other identifiers; and
- (iii) the persons covered; and
- (f) names, telephone numbers, and addresses of current and former employers, payors, and unions.

(2) A payor or labor union that discloses information ~~to the department~~ in compliance with this section is exempt from any liability to the obligor or obligee that may result from the disclosure.

(3) Failure to disclose information in compliance with this section subjects the payor or labor union to the sanctions provided in 40-5-226."

Section 79. Section 40-5-701, MCA, is amended to read:

"40-5-701. Definitions. As used in this part, the following definitions apply:

(1) (a) "Child" means:

- (i) a person under 18 years of age who is not emancipated, self-supporting, married, or a member of the armed forces of the United States;
- (ii) a person under 19 years of age who is still in high school;
- (iii) a person who is mentally or physically incapacitated when the incapacity began prior to that person reaching 18 years of age; and
- (iv) in IV-D cases, a person for whom:
 - (A) support rights are assigned under 53-2-613;
 - (B) a public assistance payment has been made;
 - (C) the department is providing support enforcement services under 40-5-203; or
 - (D) the department has received a referral for interstate services from an agency of another state under the provisions of the Uniform Interstate Family Support Act, the Revised Uniform Reciprocal Enforcement of Support Act, the Uniform Reciprocal Enforcement of Support Act, or ~~under~~ Title IV-D

of the Social Security Act.

(b) The term may not be construed to limit the ability of the department to enforce a support order according to its terms when the order provides for support extending beyond the time the child reaches 18 years of age.

(2) "Delinquency" means a support debt or support obligation due under a support order in an amount greater than or equal to 6 months' support payments as of the date of service of a notice of intent to suspend a license.

(3) "Department" means the department of public health and human services.

(4) "IV-D case" means a case in which the department is providing support enforcement services as a result of:

(a) an assignment of support rights under 53-2-613;

(b) a payment of public assistance;

(c) an application for support enforcement services under 40-5-203; or

(d) a referral for interstate services from an agency of another state under the provisions of the Uniform Reciprocal Enforcement of Support Act, the Revised Uniform Reciprocal Enforcement of Support Act, the Uniform Interstate Family Support Act, or ~~under~~ Title IV-D of the Social Security Act.

(5) "License" means a license, certificate, registration, permit, or any other authorization issued by an agency of the state of Montana granting a person a right or privilege to engage in a business, occupation, ~~or~~ profession, recreational activity, or any other privilege that is subject to suspension, revocation, forfeiture, ~~or~~ termination, or a declaration of ineligibility to purchase by the licensing authority prior to its date of expiration.

(6) "Licensing authority" means any department, division, board, agency, or instrumentality of this state that issues a license.

(7) "Obligee" means:

(a) a person to whom a support debt or support obligation is owed; or

(b) a public agency of this or another state that has the right to receive current or accrued support payments or that is providing support enforcement services under this chapter.

(8) "Obligor" means a person who owes a duty of support or who is subject to a subpoena or warrant in a paternity or child support proceeding.

(9) "Order suspending a license" means an order issued by a support enforcement entity to suspend a license. The order must contain the name of the obligor, the type of license, and, if known, the social security number of the obligor.

(10) "Payment plan" includes but is not limited to a plan approved by the support enforcement entity that provides sufficient security to ensure compliance with a support order and that incorporates

voluntary or involuntary income withholding under part 3 or 4 of this chapter or a similar plan for periodic payment of a support debt and, if applicable, current and future support.

(11) "Recreational activity" means an activity for which a license or permit is issued by the department of fish, wildlife, and parks under Title 87, chapter 2, part 6 or 7, except 87-2-708 or 87-2-711, or under sections 87-2-505, 87-2-507, 87-2-508, or 87-2-510.

(12) "Subpoena" means a writ or order issued by a district court or the department in a proceeding or as part of an investigation related to the paternity or support of a child that commands a person to appear at a particular place and time to testify or produce documents or things under the person's control.

~~(11)~~(13) "Support debt" or "support obligation" means the amount created by:

(a) the failure to provide support to a child under the laws of this or any other state or a support order; or

(b) a support order for spousal maintenance if the judgment or order requiring payment of maintenance also contains a judgment or order requiring payment of child support for a child for whom the person awarded maintenance is the custodial parent.

~~(12)~~(14) "Support enforcement entity" means:

(a) in IV-D cases, the department; or

(b) in all other cases, the district court that entered the support order or a district court in which the support order is registered.

~~(13)~~(15) "Support order" means an order that provides a determinable amount for temporary or final periodic payment of a support debt or support obligation and that may include payment of a determinable or indeterminable amount for insurance covering the child issued by:

(a) a district court of this state;

(b) a court of appropriate jurisdiction of another state, an Indian tribe, or a foreign country;

(c) an administrative agency pursuant to proceedings under Title 40, chapter 5, part 2; or

(d) an administrative agency of another state with a hearing function and process similar to those of the department.

(16) "Suspension" includes the withdrawal, withholding, revocation, forfeiture, or nonissuance of a license and license privileges.

(17) "Warrant" means a bench warrant, a warrant to appear, an order to show cause, or any other order issued by the district court relating to the appearance of a party in a paternity or child support proceeding."

Section 80. Section 40-5-702, MCA, is amended to read:

"40-5-702. Notice of intent to suspend license. (1) Upon the petition of an obligee alleging the existence of a delinquency or upon the failure of an obligor to comply with a subpoena or warrant, a support enforcement entity may issue a notice of intent to suspend a license.

(2) The notice must be served upon the obligor personally or by certified mail and may:

(a) in a IV-D case, be incorporated into any notice served under Title 17, chapter 4, part 1, or Title 40, chapter 5, part 2 or 4;

(b) in all other cases, be combined with any other enforcement proceeding.

(3) The notice must state that the obligor's license will be suspended 60 days after service unless within that time the obligor:

(a) pays the entire support debt stated in the notice;

(b) enters into a payment plan approved by the support enforcement entity; ~~or~~

(c) complies with the subpoena or warrant; or

~~(e)~~(d) appears and shows cause in a hearing before the support enforcement entity under 40-5-703 that suspension of a license is not appropriate.

(4) In a IV-D case, the notice must advise the obligor that hearings conducted under 40-5-703 are subject to the contested case provisions of the Montana Administrative Procedure Act."

Section 81. Section 40-5-703, MCA, is amended to read:

"40-5-703. Hearing -- order suspending license. (1) To show cause why suspension of a license would not be appropriate, the obligor shall request a hearing from the support enforcement entity that issued the notice of intent to suspend the license. The request must be made within 60 days of the date of service of the notice.

(2) Upon receipt of a request for hearing from an obligor, the support enforcement entity shall schedule a hearing for the purpose of determining if suspension of the obligor's license is appropriate. The support enforcement entity shall stay suspension of the license pending the outcome of the hearing.

(3) The only issues that may be determined in a hearing under this section are the amount of the support debt or support obligation, if any, whether or not a delinquency exists, ~~and~~ whether or not the obligor has entered into a payment plan, and whether or not the obligor failed to comply with a subpoena or warrant.

(4) If an obligor fails to respond to a notice of intent to suspend a license, fails to timely request a hearing, or fails to appear at a regularly scheduled hearing, the obligor's defenses, objections, or request for a payment plan must be considered to be without merit and the support enforcement entity shall enter a final decision and order accordingly.

(5) If the support enforcement entity determines that the obligor owes a delinquency and that the

obligor has not entered into a payment plan or that the obligor failed to comply with a subpoena or warrant, the support enforcement entity shall issue an order suspending the obligor's license and ordering the obligor to refrain from engaging in the licensed activity. The support enforcement entity shall send a copy of the order suspending a license to ~~the licensing authority and~~ the obligor and shall notify the licensing authority in writing of the suspension. Notification to the licensing authority is not required if the support enforcement entity has previously suspended the license of the obligor and the suspension is still in effect.

(6) The determinations of the department under this section are a final agency decision and are subject to judicial review under 40-5-253 and the Montana Administrative Procedure Act.

(7) A determination made by the support enforcement entity under this part is independent of any proceeding of the licensing authority to suspend, revoke, deny, terminate, or renew a license."

Section 82. Section 40-5-704, MCA, is amended to read:

"40-5-704. Suspension, denial, and nonrenewal of licenses. (1) Upon receipt of ~~an order suspending a license~~ the notice of suspension of the license under 40-5-703(5), a licensing authority shall implement the suspension of the license by:

- (a) determining if it has issued a license to the obligor whose name appears on the ~~order~~ notice;
- (b) entering the suspension on the appropriate records;
- (c) reporting the suspension as appropriate; ~~and~~
- (d) denying recreational activity licenses for the next applicable license year; and
- ~~(d)~~(e) if required by law, demanding surrender of the suspended license.

(2) An order issued by a support enforcement entity under 40-5-703 suspending a license and the notice of suspension given under 40-5-703(5) must be processed by the licensing authority without an additional review or hearing involving the licensing authority concerning suspension of the license.

(3) Notwithstanding the provisions of any other law setting terms of suspension, revocation, denial, termination, or renewal of a license, an order issued by a support enforcement entity suspending a license must be implemented by the licensing authority and continues until the support enforcement entity advises the licensing authority that the suspension has been stayed or terminated.

(4) In the event that a license is suspended, any funds paid by the obligor to the licensing authority for costs related to issuance, renewal, or maintenance of a license may not be refunded to the obligor.

(5) Unless an order staying suspension of a license is in effect, an obligor who continues to engage in the business, occupation, profession, recreational activity, or other licensed activity while the obligor's license is suspended under this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$250 or more than \$500 or by imprisonment in the county jail for a term not to exceed 6 months, or both. Upon conviction of a second or subsequent violation, the obligor shall be punished by a fine of not less than \$500 or more than \$2,000 or by imprisonment in the county jail for a

term not to exceed 1 year, or both. The support enforcement entity or the licensing authority may elect the remedy under this section or any other remedy provided for engaging in a licensed activity without a license or while the license is suspended.

(6) The licensing authority is exempt from liability to the licensee for activities conducted in compliance with this part.

(7) The licensing authority has no jurisdiction to modify, remand, reverse, vacate, or stay the order of the support enforcement entity suspending a license.

(8) To the extent that inconsistencies exist between this part and the procedural requirements for suspension of a license issued by the department, this part supersedes those requirements."

Section 83. Section 40-5-709, MCA, is amended to read:

"40-5-709. Nondisciplinary suspension for failure to pay child support. Notwithstanding any other provision of this title, the ~~department~~ support enforcement entity has the authority to suspend a license or privilege to obtain a license under this part without any action by the licensing authority. The licensing authority shall, upon receipt of ~~an order issued by~~ notice of suspension of the license under 40-5-703(5) from the support enforcement entity, suspend the license or privilege to obtain a license of the named individual. The suspension must be nondisciplinary for professional or occupational licenses, and the provisions of 2-4-631 do not apply."

Section 84. Section 40-5-710, MCA, is amended to read:

"40-5-710. Stay of suspension of license -- payment plan -- hardship. (1) An obligor may at the time of the hearing conducted under 40-5-703 or, except for a recreational activity license, at any time after the hearing, petition the support enforcement entity for an order staying suspension of the license.

(2) The support enforcement entity shall consider the obligor's petition for a stay separately from any determination on whether suspension of a license is appropriate.

(3) The support enforcement entity may stay suspension of a license upon a showing that suspension or continued suspension of a license would create a significant hardship to the obligor, to the obligor's employees, to legal dependents residing in the obligor's household, or to persons, businesses, or other entities served by the obligor.

(4) A stay terminates upon:

(a) termination of the circumstances upon which a hardship is based;

(b) failure by the obligor to abide by the terms and conditions of a payment plan; or

(c) the date of termination, if any, provided in the order staying suspension of the license.

(5) If the licensing authority has been notified of an order suspending a license, the support enforcement

entity shall notify the licensing authority of any stay or reinstatement unless the support enforcement entity has suspended the license of the obligor for another delinquency or for failure to comply with a subpoena or warrant and the suspension for the other delinquency or failure to comply with a subpoena or warrant is still in effect. The support enforcement entity shall send a copy of any order staying or reinstating suspension of the license to the ~~licensing authority and the~~ obligor.

(6) (a) Upon receipt of ~~an order~~ a notice staying or reinstating suspension of the license, the licensing authority shall:

- (i) enter the information on appropriate records;
- (ii) report the action as appropriate; and
- (iii) demand surrender of the suspended license or return the reinstated license.

(b) Further action by the licensing authority is not necessary to implement the stay or reinstatement of suspension of the license."

Section 85. Section 40-5-711, MCA, is amended to read:

"40-5-711. Termination of order to suspend license. (1) ~~When~~ Except as provided in subsection (3), when the support enforcement entity determines that the support debt or support obligation is paid in full or the obligor has complied with the subpoena or warrant, it shall terminate the order suspending the license. The support enforcement entity shall send a copy of the order terminating the suspension of the license to the ~~licensing authority and the~~ obligor.

(2) Entry of an order terminating suspension of a license does not limit the ability of a support enforcement entity to issue a new order suspending the license of the same obligor in the event of another delinquency or failure to comply with a subpoena or warrant.

(3) A suspension of a recreational activity license is effective for the license year. The suspension does not terminate if the support enforcement entity determines that the support debt or support obligation is paid in full or the obligor has complied with the subpoena or warrant."

Section 86. Section 40-6-102, MCA, is amended to read:

"40-6-102. Definitions. As used in this part, the following definitions apply:

(1) "Blood test" means a test that demonstrates through examination of genetic markers either that an alleged father is not the natural father of a child or that there is a probability that an alleged father is the natural father of a child. The genetic markers may be identified from a person's blood or a tissue sample. The blood or tissue sample may be taken by blood drawing, buccal swab, or any other method approved by the American association of blood banks. A blood test may include but is not limited to the human leukocyte antigen test and DNA probe technology.

(2) "Parent and child relationship" means the legal relationship existing between a child and the child's

natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. It includes the mother and child relationship and the father and child relationship.

(3) "Support judgment" or "support order" means an order, whether temporary or final, that provides for the periodic payment of an amount of money expressed in dollars for the support of a child, including medical and health needs, child care, education, recreation, clothing, transportation, and other related expenses and costs specific to the needs of the child."

Section 87. Section 40-6-105, MCA, is amended to read:

"40-6-105. Presumption of paternity. (1) A person is presumed to be the natural father of a child if any of the following occur:

(a) the person and the child's natural mother are or have been married to each other and the child is born during the marriage or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce or after a decree of separation is entered by a court;

(b) before the child's birth, the person and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:

(i) if the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce; or

(ii) if the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation;

(c) after the child's birth, the person and the child's natural mother have married or attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:

(i) the child's mother and the child's alleged father have acknowledged the alleged father's paternity of the child in writing in accordance with subsection (1)(e) and the acknowledgment is filed with the department of public health and human services ~~or with the district court for the county where the person resides or for any county where the child support enforcement division of the department of public health and human services maintains a regional office;~~

(ii) with the person's consent, the person is named as the child's father on the child's birth certificate; or

(iii) the person is obligated to support the child under a written voluntary promise or by court order;

(d) while the child is under the age of majority, the person receives the child into the person's home and openly represents the child to be the person's natural child;

(e) the child's mother and the child's alleged father acknowledge the alleged father's paternity of the child in a paternity acknowledgment form that is provided by the department of public health and human services ~~and filed with the department or with the district court of the county where the person resides or~~

~~for any county where the child support enforcement division of the department of public health and human services maintains a regional office.~~ The department of public health and human services ~~or the district court~~ shall accept and file the completed form. As a part of a voluntary acknowledgment process, the department of public health and human services shall ~~provide~~ make written and oral information available to the parents regarding the rights and responsibilities of acknowledging paternity. If another person is presumed under this section to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted. The presumption of paternity is created when the acknowledgment is filed with the department.

(f) the scientific evidence resulting from a blood test, whether ordered by a court or administrative agency of competent jurisdiction or agreed to by the parties, shows a 95% or higher statistical probability of paternity;

(g) the person is presumed to be the child's natural father under the laws of the state or Indian territory in which the child was born.

(2) An acknowledgment is binding on a parent who executes it, whether or not the parent is a minor.

(3) ~~▲~~ Except for presumptions of paternity that are conclusive or irrebuttable under subsections (1)(g) and (5), a presumption under this section may be rebutted:

(a) in an appropriate action by a preponderance of the evidence; or

(b) by scientific evidence resulting from a blood test that excludes the person as the child's natural parent.

(4) (a) A presumption of paternity established under this section is a sufficient basis for establishing a support order.

(b) If a presumption is later rebutted or set aside and the person is under an order to pay support for the child, the person may only be relieved of support installments that accrued from the date of the order declaring the presumption to be rebutted.

(5) (a) An acknowledgment of paternity under subsection (1)(e) may be rescinded by a signatory at any time within 60 days after it was signed by filing a notice of withdrawal with the department of public health and human services. The notice of withdrawal must include an affidavit attesting that a copy of the notice was provided to any parent who signed the acknowledgment form.

(b) Without need for ratification by court or administrative proceedings, an acknowledgment of paternity under subsection (1)(e) becomes, as a matter of law, an irrebuttable presumption of paternity on the earlier of the date:

(i) the acknowledgment is not timely rescinded as provided in subsection (5)(a); or

(ii) a court or administrative judgment, decree, or order is entered that establishes paternity or a support order, when that proceeding includes the signatory.

(c) An irrebuttable presumption of paternity under this subsection (5) has the same force and effect as a district court judgment adjudicating paternity and may only be set aside for fraud, duress, or material mistake of fact. The burden of proof is on the person seeking to set the presumption aside. Except for

good cause, legal responsibilities arising from the paternity acknowledgment may not be stayed pending the outcome of an action to set aside the presumption."

Section 88. Section 40-6-111, MCA, is amended to read:

"40-6-111. Pretrial proceedings. (1) As soon as practicable after an action to declare the existence or nonexistence of the father and child relationship has been brought, an informal hearing ~~shall~~ must be held. The court may order that the hearing be held before a referee. The public ~~shall~~ must be barred from the hearing. A record of the proceeding ~~shall~~ must be kept.

(2) Upon refusal of any witness, including a party, to testify under oath or produce evidence, the court may order ~~him~~ the witness to testify under oath and produce evidence concerning all relevant facts. If the refusal is upon the ground that ~~his~~ the testimony or evidence might tend to incriminate ~~him~~ the witness, the court may grant ~~him~~ the witness immunity from all criminal liability on account of the testimony or evidence ~~he~~ the witness is required to produce. An order granting immunity bars prosecution of the witness for any offense shown in whole or in part by testimony or evidence ~~he~~ that the witness is required to produce, except for perjury committed in ~~his~~ the testimony. The refusal of a witness who has been granted immunity to obey an order to testify or produce evidence is a civil contempt of the court.

(3) Upon motion, a temporary support order may be issued at any time during a paternity action when there is clear and convincing evidence of paternity in the form of blood test results or other evidence. The temporary support order must be established according to the uniform child support guidelines adopted under 40-5-209."

Section 89. Section 40-6-115, MCA, is amended to read:

"40-6-115. Civil action. (1) An action under this part is a civil action governed by the rules of civil procedure. The action must be heard by a judge sitting without a jury. The mother of the child and the alleged father are competent to testify and may be compelled to testify. Sections 40-6-111(2), 40-6-112, and 40-6-113 apply to all actions brought under this part.

(2) Testimony relating to sexual access to the mother by an unidentified person at any time or by an identified person at a time other than the probable time of conception of the child is inadmissible in evidence, unless offered by the mother.

(3) In an action against an alleged father, evidence offered by the alleged father with respect to a person who is not subject to the jurisdiction of the court concerning sexual intercourse with the mother at or about the probable time of conception of the child is admissible in evidence only if the alleged father has undergone and made available to the court blood tests, the results of which do not exclude the possibility of the alleged father's paternity of the child. A person who is identified and is subject to the jurisdiction of the court must be made a defendant in the action.

(4) If a blood test has been initially ordered under this part and a party objects to the blood test results, the objection must be filed within 20 days after service of the blood test results. If an objection is filed, and upon the alleged father's advance payment for additional testing, the court shall order an additional

blood test. If no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy. This subsection does not limit the right of a party to contest the identity of persons submitting to testing.

(5) If the alleged father fails to answer or to appear at a scheduled hearing or for a scheduled blood test, the district court shall enter an order declaring the alleged father the legal father of the child. The district court may not enter an order under this section if there is more than one alleged father unless the default applies to only one of them and all others have been excluded by the results of blood testing.

(6) Bills for pregnancy, childbirth, and paternity blood testing are admissible as evidence without third-party foundation testimony and are prima facie evidence of the amounts incurred."

Section 90. Section 40-6-116, MCA, is amended to read:

"40-6-116. Judgment or order. (1) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

(2) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a substitute birth certificate be issued under 40-6-123.

(3) (a) The judgment or order may contain any other provision directed against the appropriate party to the proceeding concerning the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child.

(b) Except when the financial responsibility of a responsible parent is in the process of being determined pursuant to the administrative procedure provided in 40-5-225, the judgment or order must contain a provision concerning the duty of child support.

(c) The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

(4) (a) Support judgments or orders ordinarily must be for periodic payments, which may vary in amount.

(b) In the best interest of the child, a lump-sum payment or the purchase of an annuity may be ordered in lieu of periodic payments of support.

(c) The court may limit the father's liability for past support of the child to the proportion of the expenses already incurred that the court considers just.

(5) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall consider all relevant facts, including:

(a) the needs of the child, including medical needs;

(b) the standard of living and circumstances of the parents;

- (c) the relative financial means of the parents;
- (d) the earning ability of the parents;
- (e) the need and capacity of the child for education, including higher education;
- (f) the age of the child;
- (g) the financial resources and the earning ability of the child;
- (h) the responsibility of the parents for the support of others;
- (i) the value of services contributed by the custodial parent;
- (j) the cost of day care for the child; and
- (k) any custody arrangement that is ordered or decided upon.

(6) (a) Whenever a court issues or modifies an order concerning child support, the court shall determine the child support obligation by applying the standards in this section and the uniform child support guidelines adopted by the department of public health and human services pursuant to 40-5-209. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and those in which the parties have entered into an agreement regarding the support amount. A verified representation of a defaulting parent's income, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable support award, unless the court finds by clear and convincing evidence that the application of the standards and guidelines is unjust to the child or to any of the parties or is inappropriate in that particular case.

(b) If the court finds that the guideline amount is unjust or inappropriate in a particular case, it shall state its reasons for finding that the application of the standards and guidelines is unjust to the child or a party or is inappropriate in that particular case. Similar reasons must also be stated in a case in which the parties have agreed to a support amount that varies from the guideline amount. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines.

(c) If the court does not order a parent owing a duty of support to a child to pay any amount for the child's support, the court shall state its reasons for not ordering child support.

(d) Child support obligations established under this section are subject to the registration and processing provisions of [sections 1 through 11].

(7) The judgment or order, whether temporary or final, concerning child support and each modification of a judgment or order for child support must include a medical support order as defined in 40-5-804.

(8) (a) Unless an exception is found under 40-5-315 or 40-5-411 and the exception is included in the support order, a support obligation established by judgment, decree, or order under this section, whether temporary or final, and each modification of an existing support obligation made under 40-6-118 must be enforced by immediate or delinquency income withholding, or both, under Title 40, chapter 5, part 3 or 4. A support order that omits the exception or that provides for a payment arrangement inconsistent

with this section is nevertheless subject to withholding for the payment of support without need for an amendment to the support order or for any further action by the court.

(b) If a support order subject to income withholding is expressed in terms of a monthly obligation, the order may be annualized and withheld on a weekly or biweekly basis, corresponding to the obligor's regular pay period.

(c) If an obligor is excepted from paying support through income withholding, the support order must include as part of the order a requirement that whenever the case is receiving services under Title IV-D of the Social Security Act, support payments must be paid through the department of public health and human services as provided in [section 5].

(9) (a) ~~For the purposes of income withholding as provided in subsection (8), whenever~~ If the district court establishes paternity or establishes or modifies a child support obligation, the judgment, decree, or order must include a provision requiring the ~~parent obligated to pay support to inform~~ parties to promptly file with the court and, ~~if the department of public health and human services is providing services under Title IV-D of the Social Security Act for the enforcement of the judgment, decree, or order, the department, of the following~~ to update, as necessary, information on:

(i) identity of the party;

(ii) social security number;

(iii) residential and mailing addresses;

(iv) telephone number;

(v) driver's license number;

~~(a)(vi) the name, and address, and telephone number of the parent's current~~ party's employer; and

~~(b) whether the parent has access to health insurance through an employer or other group; and~~

~~(c) if insurance coverage is available, the health insurance policy information.~~

(vii) if the child is covered by a health or medical insurance plan, the name of the insurance carrier or health benefit plan, the policy identification number, the name of the persons covered, and any other pertinent information regarding coverage or, if the child is not covered, information as to the availability of coverage for the child through the party's employer.

(b) The order must further direct that in any subsequent child support enforcement action, upon sufficient showing that diligent effort has been made to ascertain the location of the party, the district court or the department of public health and human services, if the department is providing services under Title IV-D of the Social Security Act, may consider the due process requirements for notice and service of process to be met with respect to the party upon delivery of written notice by regular mail to the most recent address of the party or the party's employer's address reported to the court.

(10) Each district court judgment, decree, or order establishing a final child support obligation under this part and each modification of a final order for child support must contain a statement that the order is subject to review and modification by the department of public health and human services upon the

request of the department or a party under 40-5-271 through 40-5-273 when the department is providing services under Title IV-D of the Social Security Act for the enforcement of the order.

(11) The social security number of a person subject to a paternity determination under this part must be recorded in the records relating to the matter."

Section 91. Section 40-6-117, MCA, is amended to read:

"40-6-117. Enforcement of judgment or order. (1) If existence of the father and child relationship is declared or paternity or a duty of support has been acknowledged or adjudicated under this part or under prior law, the court may, except as provided in 40-6-116(8) and [section 5], order support payments to be made to the mother, the clerk of the court, or a person, corporation, or agency designated to administer them for the benefit of the child under the supervision of the court.

(2) Full faith and credit must be given to a determination of paternity made by any other state, whether presumed by law, established through voluntary acknowledgment, or established by administrative or judicial processes.

(3) Willful failure to obey the judgment or order of the court is a civil contempt of the court. All remedies for the enforcement of judgments apply.

(4) (a) A district court judgment, decree, or order that establishes or modifies a child support obligation must include a provision requiring the child support obligation to be paid, without need for further order of the court, to:

(i) the legal custodian of the minor child;

(ii) ~~(A) any other~~ a person, organization, or agency ~~having legal~~ to which the legal custodian voluntarily or involuntarily relinquishes actual physical custody of the minor child ~~or collecting child support on behalf of the minor child under a legal assignment of rights; or~~

~~(B) the court for the benefit of the minor child;~~

(iii) any other person, organization, or agency ~~designated as caretaker of the minor child by agreement of the legal custodian; or~~

~~(iv) any assignee or other person, organization, or agency authorized to receive or collect child support entitled by law, assignment, or similar reason to receive or collect the child support obligation.~~

(b) If the department of public health and human services is providing services under Title IV-D of the Social Security Act, payment of support must be made through the department for distribution to the person, organization, or agency entitled to the payment.

~~(b)(c)~~ A judgment, decree, or order that omits the provision required by subsection (4)(a) is subject to the requirements of subsection (4)(a) without need for an amendment to the judgment, decree, or order or for any further action by the court."

Section 92. Section 50-15-210, MCA, is amended to read:

"50-15-210. Paternity acknowledgment. (1) Upon the birth of a child to a mother unmarried at the time of birth, the administrator or person in charge of a hospital or other institution in which the birth occurs or the midwife who attends the birth shall:

(a) provide an opportunity for the child's mother and alleged father to complete an acknowledgment of paternity pursuant to 40-6-105;

(b) provide written information, furnished by the department of public health and human services, describing the rights and responsibilities of paternity, the benefits of having a child's paternity established, and the child's right to receive support; and

(c) forward a copy of an acknowledgment signed by the mother and the father to the department.

(2) The hospital, institution, or midwife is entitled to reimbursement for reasonable costs of obtaining an acknowledgment. The department of public health and human services shall establish the amount of reasonable costs, not to exceed the amount for which federal financial participation is available, and the procedures for claiming reimbursement.

(3) Hospitals, institutions, and midwives shall use forms prescribed by the department of public health and human services for the acknowledgment of paternity.

(4) If the child is born in this state, the department of public health and human services shall file an acknowledgment received under 40-6-105 or this section with the child's certificate of birth. If the child was not born in this state or if an acknowledgment received under 40-6-105 or this section cannot be filed with the child's certificate of birth, the department shall file the acknowledgment in an acknowledgment registry created and maintained for that purpose."

Section 93. Section 50-15-223, MCA, is amended to read:

"50-15-223. Certificates of birth following adoption, legitimation, or determination or acknowledgment of paternity. (1) The department shall establish a new certificate of birth for a person born in this state when the department receives the following:

(a) a certificate of adoption, as provided in 50-15-311, a certificate of adoption prepared and filed in accordance with the laws of another state or foreign country, or a certified copy of the decree of adoption, together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth; or

(b) a request that a new certificate be established if the request shows that:

(i) a district court, court of appropriate jurisdiction in another state, or administrative agency in this state or another state with appropriate jurisdiction has determined the paternity of the person and information necessary to identify the original certificate of birth is provided; or

(ii) both parents have acknowledged the paternity of the person and request that the surname be changed

from that shown on the original certificate.

- (2) The date of birth and the city and county of birth must be stated in the newly established certificate of birth. The department shall substitute the new certificate of birth for the original certificate of birth in the files. The original certificate of birth and the evidence of adoption, legitimation, court determination of paternity, or paternity acknowledgment may not be subject to inspection, except upon order of a district court, as provided by rule, or as otherwise provided by state law.
- (3) Upon receipt of a report of an amended decree of adoption, the department shall amend the certificate of birth as provided in rules adopted by the department.
- (4) Upon receipt of a report or decree of annulment of adoption, the department shall restore the original certificate of birth issued before the adoption to its place in the files and the certificate of birth issued upon adoption and evidence pertaining to the adoption proceeding may not be open to inspection, except upon order of a district court or as provided by rule adopted by the department.
- (5) Upon written request of both parents and receipt of a sworn acknowledgment and other credible evidence of paternity signed by both parents of a child born outside of marriage, the department shall reflect the paternity on the child's certificate of birth if paternity is not already shown on the certificate of birth.
- (6) If a certificate of birth is not on file for the adopted child for whom a new certificate of birth is to be established under this section and the date and place of birth have not been determined in the adoption or paternity proceedings pertaining to the child, a delayed certificate of birth must be filed with the department, as provided in 50-15-204, before a new certificate of birth may be established. The new certificate of birth must be prepared on a form prescribed by the department.
- (7) When a new certificate of birth is established by the department, the department may direct that all copies of the original certificate of birth in the custody of any other custodian of vital records in this state either be sealed from inspection or be forwarded to the department for sealing from inspection.
- (8) (a) The department shall, upon request of the adopting parents, prepare and register a certificate of birth in this state for a person born in a foreign country who is not a citizen of the United States and who was adopted through a district court in this state.

(b) The certificate of birth must be established by the department upon receipt of a certificate of adoption, conforming to the requirements of 50-15-311, from the court that reflects entry of an order of adoption, proof of the date and place of the child's birth, and a request for the establishment of a certificate of birth from the court, the adopting parents, or the adopted person, if the person is 18 years of age or older.

(c) The certificate of birth must be labeled "Certificate of Foreign Birth" and must contain the actual country of birth. A statement must be included on the certificate indicating that it is not evidence of United States citizenship for the child for whom it is issued.

(d) After registration of the certificate of birth in the new name of the adopted person, the department shall seal and file the certificate of adoption, which is not subject to inspection, except upon order of the district court, as provided by rule, or as otherwise provided by state law.
- (9) The department may promulgate rules necessary to implement this section."

Section 94. Section 50-15-403, MCA, is amended to read:

"50-15-403. Preparation and filing of death or fetal death certificate. (1) A person in charge of disposition of a dead body or fetus that weighs at least 350 grams at death or, if the weight is unknown, has reached 20 completed weeks of gestation at death shall obtain personal data on the deceased, including the deceased's social security number, if any, or, in the case of a fetal death, on the parents that is required by the department from persons best qualified to supply the data and enter it on the death or fetal death certificate.

(2) The person in charge of disposition of the dead body or fetus shall present the death certificate to the certifying physician or the coroner having jurisdiction for medical certification of the cause of death. The person in charge of disposition shall obtain the completed certification of the cause of death from the physician or coroner and shall, within the time that the department may by rule prescribe, file the death or fetal death certificate with the local registrar in the registration area where the death occurred."

Section 95. Section 53-2-613, MCA, is amended to read:

"53-2-613. Application for assistance -- assignment of support rights. (1) Applications for public assistance, including but not limited to aid to families with dependent children and medical assistance, must be made to the county department of public welfare in the county in which the person is residing. The application must be submitted, in the manner and form prescribed by the department of public health and human services, and must contain information required by the department of public health and human services.

(2) A person by signing an application for public assistance assigns to the state, to the department of public health and human services, and to the county welfare department all rights that the applicant may have to support and medical payments from any other person in the applicant's own behalf or in behalf of any other family member for whom application is made.

(3) The assignment:

- (a) is effective for both current and accrued support and medical obligations;
- (b) takes effect upon a determination that the applicant is eligible for public assistance;
- (c) remains in effect with respect to the amount of any unpaid support and medical obligation accrued under the assignment that was owed prior to the termination of public assistance to a recipient; and
- (d) does not apply to support that accrued before the applicant received public assistance.

(4) If a person who is the legal custodian and child support obligee under a support order relinquishes physical custody of a child to a caretaker relative without obtaining a modification of legal custody and the caretaker relative is determined eligible for public assistance on behalf of the child, the child support obligation is transferred by operation of law to the caretaker relative and may be assigned as provided in subsection (2). The transfer and assignment terminate when the caretaker relative no longer has physical custody of the child, except for any unpaid support still owing under the assignment at that time.

~~(4)~~(5) Whenever a child support or spousal support obligation is assigned to the department of public health and human services pursuant to this section, the following provisions apply:

- (a) If the support obligation is based upon a judgment or decree or an order of a court of competent jurisdiction, the department may retain assigned support amounts in an amount sufficient to reimburse public assistance money expended.
- (b) A recipient or former recipient of public assistance may not commence or maintain an action to recover or enforce a delinquent support obligation or make any agreements with any other person or agency concerning the support obligation, except as provided in 40-5-202.
- (c) If a notice of assigned interest is filed with the district court, the clerk of the court may not pay over or release for the benefit of any recipient or former recipient of public assistance any amounts received pursuant to a judgment or decree or an order of the court until the department's child support enforcement division has filed a written notice that:
 - (i) the assignment of current support amounts has been terminated; and
 - (ii) all assigned support delinquencies, if any, are satisfied or released.
- (d) A recipient or former recipient of public assistance may not take action to modify or make any agreement to modify, settle, or release any past, present, or future support obligation unless the department's child support enforcement division is given written notice under the provisions of 40-5-202. Any modifications or agreements entered into without the participation of the department are void with respect to the state, the department, and the county welfare department.
- (e) A support obligation assigned under this section may not be terminated, invalidated, waived, set aside, or considered uncollectible by the conduct, misconduct, or failure of a recipient or former recipient of public assistance to take any action or to cease any action required under a decree, judgment, support order, custody order, visitation order, restraining order, or other similar order."

Section 96. Section 61-5-107, MCA, is amended to read:

"61-5-107. Application for license, instruction permit, or motorcycle endorsement. (1) Each application for an instruction permit, driver's license, or motorcycle endorsement must be made upon a form furnished by the department. A motorcycle endorsement is required for the operation of a quadricycle. Each application must be accompanied by the proper fee, and payment of the fee entitles the applicant to not more than three attempts to pass the examination within a period of 6 months from the date of application. A voter registration form for mail registration as prescribed by the secretary of state must be attached to each driver's license application. If the applicant wishes to register to vote, the department shall accept the registration and forward the form to the election administrator.

(2) Each application must state the full name, date of birth, sex, ~~and~~ residence address of the applicant, and if the application is for a commercial vehicle operator's license, social security number, must briefly describe the applicant, and must state whether:

- (a) the applicant has previously been licensed as a driver or commercial vehicle operator, and, if so, when and by what state or country;

- (b) any commercial operator license has ever been suspended or revoked; or
 - (c) an application has ever been refused, and, if so, the date of and reason for suspension, revocation, or refusal.
- (3) When application is received from an applicant previously licensed by another jurisdiction, the department shall request a copy of the applicant's driving record from the previous licensing jurisdiction. The driving record may be transmitted manually or by electronic medium. When received, the driving records become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance."

Section 97. Section 87-1-102, MCA, is amended to read:

"87-1-102. Penalties. (1) A person who purposely, knowingly, or negligently violates a provision of this title, any other state law pertaining to fish and game, or the orders or rules of the commission or department is guilty of a misdemeanor, except if a felony is expressly provided by law, and shall be fined an amount not less than \$50 or more than \$1,000 or imprisoned in the county jail for not more than 6 months, or both, unless a different punishment is expressly provided by law for the violation. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of that person's license and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period set by the court. If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss of privileges as imposed by the court. The person shall surrender all licenses, as ordered by the court, to the department within 10 days.

(2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting a bighorn sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals shall be fined an amount not less than \$500 or more than \$2,000 or imprisoned in the county jail for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.

(b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, elk, or mountain lion or any part of these animals shall be fined an amount not less than \$300 or more than \$1,000 or imprisoned in the county jail for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.

(c) A person convicted of unlawfully attempting to trap or hunt a game animal shall be fined an amount not less than \$200 or more than \$600 or imprisoned in the county jail for not more than 60 days, or both.

(d) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, possessing,

transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation of any provision of this title shall be fined an amount not less than \$100 or more than \$1,000, imprisoned in the county jail for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period, and any pelts possessed unlawfully must be confiscated. For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.

(e) A person convicted of hunting, fishing, or trapping while that person's license is forfeited or a privilege is denied shall be imprisoned in the county jail for not less than 5 days or more than 6 months. In addition, that person may be fined an amount not less than \$500 or more than \$2,000.

(3) A person convicted or who has forfeited bond or bail under this section and whose license privileges are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping license or permit during the period when license privileges have been forfeited. A person convicted of unlawfully purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping license during the period when license privileges have been forfeited shall be fined an amount not less than \$500 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

(4) A person convicted or who has forfeited bond or bail under this section and who has been ordered to pay restitution under the provisions of 87-1-111 may not apply for any special license under Title 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special license or enter a drawing for a special license or permit for the same species of game animal that was unlawfully taken for an additional period of 5 years following the ending date of the first 5-year period. A person convicted of unlawfully applying for any special license under Title 87, chapter 2, part 7, or unlawfully entering a drawing for a special license or permit shall be fined an amount not less than \$500 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

(5) Notwithstanding the provision of subsection (1), the penalties provided by this section are in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2.

(6) If an administrative authority suspends a license, permit, or privilege to obtain a license or permit issued under this title, THE ADMINISTRATIVE AUTHORITY OR the department shall notify the person of the suspension and the person shall surrender the license or permit to the department within 10 days."

SECTION 98. SECTION 87-1-108, MCA, IS AMENDED TO READ:

"87-1-108. Suspension of privileges for failure to comply with citation or sentence. (1) A person who fails to comply with the terms of a court citation, the terms of an administrative suspension, or fails to fulfill the obligations of any court-imposed sentence for a wildlife violation under this title, resulting in the issuance of a warrant for ~~his~~ the person's arrest, shall surrender any current hunting, fishing, and trapping licenses to the department, and ~~his~~ the person's privileges to hunt, fish, and trap and to hold a valid license to hunt, fish, or trap are suspended until the terms of the court citation or sentence are satisfied.

(2) A person who loses ~~his~~ the person's privileges under this section or through an administrative process must be notified by the department or by the administrative authority in person or by mail. A person who hunts, fishes, traps, purchases licenses, or refuses to surrender any current hunting, fishing, or trapping license in violation of this section is guilty of a misdemeanor and subject to the penalties prescribed in 87-1-102."

~~Section 99. Section 87-2-106, MCA, is amended to read:~~

~~"87-2-106. Application for license -- penalties for violation -- forfeiture of privileges. (1) A license may be procured from the director, any warden, or any authorized agent of the director. The applicant shall state the applicant's name, social security number, age, occupation, address of permanent residence, and post office address, the applicant's qualifying length of time as a resident in the state of Montana, whether a citizen of the United States or an alien, and other facts, data, or descriptions as may be required by the department. An applicant for a resident license shall present a valid Montana driver's license, Montana driver's examiner's identification card, or other identification specified by the department to substantiate the required information. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a license. It is unlawful and a misdemeanor for a license agent to sell a hunting, fishing, or trapping license to an applicant who fails to produce the required identification at the time of application for licensure. Except as provided in subsections (2) through (4), the statements made by the applicant must be subscribed to before the officer or agent issuing the license.~~

~~(2) Except as provided in subsection (3), department employees or officers may issue licenses by mail. Statements on an application for a license to be issued by mail need not be subscribed to before the employee or officer.~~

~~(3) To apply for a license under the provisions of 87-2-102(7), the applicant shall apply to the director and shall submit at the time of application a notarized affidavit that attests to fulfillment of the requirements of 87-2-102(7). The director shall process the application in an expedient manner.~~

~~(4) A resident may apply for and purchase a wildlife conservation license, hunting license, or fishing license for the resident's spouse, parent, child, brother, or sister who is otherwise qualified to obtain the license.~~

~~(5) A license is void unless subscribed to by the licensee and by an employee or officer of the department or by a license agent or an authorized representative of the license agent.~~

~~(6) It is unlawful to subscribe to any statement, on any application or license, that is materially false. Any material false statement contained in an application renders the license issued pursuant to it void. A person violating any provision of this subsection is guilty of a misdemeanor.~~

~~(7) (a) A person not meeting the residency criteria set out in 87-2-102 who is convicted of affirming to a false statement to obtain a resident license shall be:~~

~~(i) fined not less than the greater of \$100 or twice the cost of the nonresident license that authorized the sought-after privilege or more than \$1,000;~~

~~(ii) imprisoned in the county jail for not more than 6 months; or~~

~~(iii) both fined and imprisoned.~~

~~(b) In addition to the penalties specified in subsection (7)(a), upon conviction or forfeiture of bond or bail, the person shall forfeit any current hunting, fishing, and trapping licenses and the privilege to hunt, fish, and trap in Montana for not less than 18 months.~~

~~(8) It is unlawful and a misdemeanor for a person to purposely or knowingly assist an unqualified applicant in obtaining a resident license in violation of this section."~~

~~**Section 100.** Section 87-2-202, MCA, is amended to read:~~

~~**"87-2-202. Application -- stamp attachment -- fee -- expiration.** (1) A wildlife conservation license must be sold upon written application. The application must contain the applicant's name, social security number, age, occupation, place of residence, post office address, and the qualifying length of time as a resident in the state of Montana; state whether the applicant is a citizen of the United States or an alien; and be subscribed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's identification card, or other identification specified by the department to substantiate the required information when applying for a wildlife conservation license. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a wildlife conservation license. It is unlawful and a misdemeanor for a license agent to sell a wildlife conservation license to an applicant who fails to produce the required identification at the time of application for licensure.~~

~~(2) Hunting, fishing, or trapping licenses in the form of tags or stamps issued to a holder of a wildlife conservation license must be affixed to or recorded on the wildlife conservation license according to rules the department may prescribe.~~

~~(3) (a) Resident wildlife conservation licenses may be purchased for a fee of \$4.~~

~~(b) Nonresident wildlife conservation licenses may be purchased for a fee of \$5.~~

~~(4) Licenses issued are void after the last day of February next succeeding their issuance."~~

NEW SECTION. Section 99. Codification instruction. (1) [Sections 1 through 11] are intended to be codified as an integral part of Title 40, chapter 5, and the provisions of Title 40, chapter 5, apply to [sections 1 through 11].

(2) [Section 12] is intended to be codified as an integral part of Title 40, chapter 5, part 2, and the provisions of Title 40, chapter 5, part 2, apply to [section 12].

(3) [Section 13] is intended to be codified as an integral part of Title 40, chapter 5, part 1, and the provisions of Title 40, chapter 5, part 1, apply to [section 13].

(4) [Section 14] is intended to be codified as an integral part of Title 19, chapter 2, part 9, and the provisions of Title 19, chapter 2, apply to [section 14].

(5) [Section 15] is intended to be codified as an integral part of Title 19, chapter 20, part 3, and the provisions of Title 19, chapter 20, apply to [section 15].

NEW SECTION. **Section 100. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 101. Two-thirds vote required.** Because 40-5-206 limits governmental liability by including a provision that a public entity that discloses certain information is not liable for negligent disclosure, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage of that provision. If the required vote is not obtained, the bracketed phrase contained in 40-5-206 is void.

NEW SECTION. **Section 102. Retroactive applicability.** [Section 1(6)(b)] applies retroactively, within the meaning of 1-2-109, to orders issued after January 1, 1994.

NEW SECTION. **Section 103. Effective dates.** (1) Except as provided in subsections (2) and (3), [this act] is effective July 1, 1997.

(2) [Sections 1, 9, 10, and 13] are effective October 1, 1997.

(3) [Sections 2 through 8] are effective October 1, 1998.

-END-

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BRUCE D. CRIPPEN, on February 20, 1997, at 10:00 A.M., in Senate Judiciary Room, Room 325.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Lorents Grosfield, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter L. McNutt (R)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Judy Keintz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 321, 2/17
HB 215, 2/17
SB 374, 2/17
HB 239, 2/17

Executive Action: SB 96, HB 215, HB 321, HB 239

EXECUTIVE ACTION ON SB 96

Motion: SEN. LORENTS GROSFIELD MOVED SB 96 BE TAKEN OFF THE TABLE.

Discussion: SEN. GROSFIELD commented that a number of people who are interested in the issue have come forth and indicated that a voluntary system would be acceptable to them. They have worked on amendments. He explained that a letter had been provided to the committee. **EXHIBIT 1** The Attorney General sent this letter to people in and out of the industry which outlined a voluntary approach.

Motion/Vote: The MOTION FAILED with SEN. SHARON ESTRADA, STEVE DOHERTY, AL BISHOP, REINY JABS and RIC HOLDEN voting no.

HEARING ON SB 374

Sponsor: SEN. DON HARGROVE, SD 16, Bozeman

Proponents: Mary Ann Wellbank, Administrator, Child Support Enforcement Division, Department of Public Health and Human Services,
Hank Hudson, Child and Family Services Division, Dept. of Public Health and Human Services
Maurine Shaunessey, citizen

Opponents: None

Opening Statement by Sponsor:

{Tape: 1; Side: a; Approx. Time Count: 8:37; Comments: .}

SEN. DON HARGROVE, SD 16, Bozeman, introduced SB 374. This bill includes federal mandates. The hammer can be our entire AFDC of approximately \$40 million. This bill would be twice as long if Montana had not taken a pro-active stance and already implemented many of the federal requirements. The Department has tried to trim the bill. This is the "deadbeat dad" bill. This completes setting up a database to make sure people face their responsibilities. The aid to family with dependent children has been changed by the federal government. It is now called Temporary Assistance for Needy Families. This bill will require registering people when they get a job. The state will be able to garnish retirement wages as well as regular wages. Professional and recreational licenses are included. The fiscal note gives you a good idea of the program.

Proponents' Testimony:

{Tape: 1; Side: a; Approx. Time Count: 8:45; Comments: .}

Mary Ann Wellbank, Administrator, Child Support Enforcement Division, Department of Public Health and Human Services, presented her written testimony on SB 374. EXHIBIT 2

{Tape: 1; Side: b; Approx. Time Count: 9:24; Comments: .}

Hank Hudson, Child and Family Services Division, Department of Public Health and Human Services, commented that the success of welfare reform in Montana is contingent on Child Support Enforcement.

Maurine Shaunessey, citizen, stated she has two boys who are 13 and 15. She has raised them herself for the last 13 years. Although there is a court order saying their father should pay child support, they are still not getting support from their

father. He has worked in other states. He gets into and out of a job faster than they can track him down. He makes good money. She wanted to address the new hire section of the bill. She is self-employed, small business owner. She occasionally has employees. For any employee, she fills out a W-4 and other paperwork on a regular basis. Filling out one more form to report each new employee within 20 days of hiring them will help a lot of children in the state. **EXHIBIT 3**

Opponents' Testimony: None

Questions From Committee Members and Responses:

{Tape: 1; Side: b; Approx. Time Count: 9:28; Comments: .}

SEN. MIKE HALLIGAN asked Ms. Wellbank to explain the IV-D cases.

Ms. Wellbank explained that IV-D is the title of the Social Security Act which sets forth the funding and authorization for their program. They are required to handle all cases where there is an AFDC, or now TANF, recipient. Everyone on welfare where the ex-spouse or parent is out of the home is automatically referred to them. The parent should pay support before the state gives welfare payments. The other cases in the IV-D program are people who are not on AFDC and who apply for their services. They have 44,000 cases in Montana and over half are not on AFDC. There are a lot of people who are non-IV-D. This bill will require district courts, when they issue court orders, to have certain language saying that if this is subject to income withholding, all the payments need to go through the Child Support Enforcement Division. The non-IV-D cases are also affected when the district court or the Division issues an order, a brief summary of that order must be filed with the Division.

SEN. HALLIGAN asked Ms. Wellbank who would enforce the penalty on the new hire issue?

Ms. Wellbank stated they would have an administrative hearing. If the employer is not withholding as ordered, they can currently hold an administrative hearing and find the employer in contempt. This would extend to the new hire responsibility.

SEN. HALLIGAN asked Ms. Wellbank how Section 1 would work relating to financial institutions?

Ms. Wellbank stated that right now the Division has the authority to issue writs and liens against assets. When they identify a bank account, they tell the bank what needs to be withheld and sent to them. This bill would be more proactive. If they have a case and a parent is delinquent, they will have created a listing of the delinquencies; the listing will be sent to a bank for a data match. The bank will run the listing and inform the Division. They are not allowed to mention this to the obligated parent. They will then send the bank a writ to collect the

money. The information is handled confidentially and the bank is protected from liability by sharing their information with the Division. The bank lobbyists felt the smaller banks would not have the capability of running the Division's data match against theirs due to the size of the Division's data match. The lobbyists suggested that they allow the bank to be able to send their records to the Division and have them run the data match.

SEN. HALLIGAN stated that sections 13 through 17 indicated that they would be going after retirements. What else would they be going after?

Ms. Wellbank stated that under current law, if they are on welfare, they cannot enforce the support order. If the delinquent party is receiving workers' compensation, unemployment, Social Security disability, or Veteran's benefits, they can collect that money. This bill expands to include both public and private retirement benefits.

SEN. HALLIGAN asked her to describe the process where the child had out-of-home placement.

Ms. Wellbank stated they have a provision in current law where the Division follows the child. If a parent is paying a support order and the child goes to a grandparent, without modifying the order, the Division has the same authority. SB 110 will allow them to establish an order in IV-E cases.

SEN. GROSFIELD asked if the federal requirements in the bill were minimum requirements or if they had added language to them?

Ms. Wellbank clarified that the Division's provisions were minimal. The only controversial Division introduced section is the requirement for Social Security numbers on hunting licenses. They worked with Fish, Wildlife and Parks and both parties felt this would work quite well. Employer reporting is very sensitive. They have strictly adhered to the provisions in the federal law. There are mandatory requirements for the employer to report which include the Social Security number, name, address, and all W-4 information. They also have a provision which states that the employer may report medical insurance.

SEN. GROSFIELD asked if the 20 day requirement was in federal law.

Ms. Wellbank confirmed that it was.

SEN. GROSFIELD stated that there was liability on the employer's part regarding withholding orders from other states.

Ms. Wellbank stated that in 1993 they did not put that into the bill. They prefer having the states send the order to the Division and have the Division collect under a Montana order.

They will notify employers that they have hired an employer representative to deal with these types of issues.

SEN. GROSFIELD asked how much federal money the state would be losing if we did not comply with these federal mandates?

Ms. Wellbank stated the letter she received from the federal Department of Health and Human Services, **EXHIBIT 4**, explained that when a state failed to comply, its plan would be subject to disapproval by the Office of Child Support Enforcement. There would then be no authority to expend federal funds under Title IV-D of the Act for the operation of the state's Child Support Enforcement Program. For them that would mean \$12 million over the biennium. If a state IV-D plan is disapproved, this will result in immediate suspension of all federal payments for the Child Support Enforcement Program and they will be continued to be withheld until the state IV-D Plan can be approved by OCSC. In order to be eligible for a block grant for temporary assistance for needy families, a certain section of the act requires the state to certify that it will operate a child support enforcement program under the state plan approved in IV-D, therefore TANIF funding would also be jeopardized if the state failed to enact the required child support legislation on a timely basis. They can apply for an exemption from the law, but the criteria is very strict. If you already have a law which is similar and works well, you can submit a plea. The only area which might work for this would be the direct withholding. Montana has a very good administrative process which already works.

SEN. GROSFIELD suggested this bill be declared a revenue bill.

CHAIRMAN CRIPPEN stated they would look into that possibility.

SEN. DOHERTY asked **Ms. Wellbank** to provide the committee with the sections which are required by the federal act and the sections which would not be required by the federal act. He also asked if this bill would help child support with self-employed individuals.

Ms. Wellbank felt that the bank, utility, and recreational license suspension interfacing would be the key areas.

SEN. DOHERTY questioned the wording "any other entities maintaining customer databases." He doesn't know any business which doesn't maintain a customer database.

Ms. Wellbank stated they would not be required to submit their databases. The Division would submit their database to the business.

Closing by Sponsor:

{Tape: 1; Side: b; Approx. Time Count: 9:52; Comments: .}

SEN. HARGROVE stated most of this bill is already in place. This deals with getting tough on welfare. We need to force the system to work.

HEARING ON HB 239

Sponsor: REP. JOE TROPILA, HD 47, Great Falls

Proponents: None

Opponents: None

Opening Statement by Sponsor:

{Tape: 2; Side: a; Approx. Time Count: 9:58; Comments: .}

REP. JOE TROPILA, HD 47, Great Falls, introduced HB 239 by request of the Secretary of State. This bill is a housekeeping matter. The only thing it adds is not allowing a notary to notarize his own signature. This is a common practice and has never been in statute.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. TROPILA closed on HB 239. He asked SEN. DOHERTY to carry the bill in the Senate if it was passed out of committee.

EXECUTIVE ACTION ON

Motion/Vote: SEN. GROSFIELD MOVED HB 239 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.

HEARING ON HB 321

Sponsor: REP. LINDA MCCULLOCH, HD 70, Missoula

Proponents: Scott Resevett, Valley Process Service
Dean Crow, Valley Process Service
Earl Rowe

Opponents: None

Opening Statement by Sponsor:

{Tape: 2; Side: a; Approx. Time Count: 10:04; Comments: .}

REP. LINDA MCCULLOCH, HD 70, Missoula, introduced HB 321 which is an act making it an offense to obstruct a person serving process.

distance ahead of the handler. The element of surprise is with the aggressor and that puts the dog at great risk.

Ralph DeKunso, Lewis and Clark Search and Rescue, stated they are volunteers who purchase, train and maintain their dogs at their own expense. They operate under the sheriff or peace officer. Their dogs can find drowning victims and folks who are buried in avalanches.

Mike Batista, Department of Justice, commented that this bill would also cover the arson dog in the State Fire Marshall's Office. This dog detects accelerants at fire scenes. Last year the dog worked 70 fires, half of them were arson cases. The dog may be harmed by a suspect.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. ORR closed on HB 215.

EXECUTIVE ACTION ON SB 215

MOTION/VOTE: SEN. ESTRADA MOVED TO CONCUR IN HB 215. THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 374

Discussion: SEN. DOHERTY stated that doctors and lawyers would have difficulty giving out information.

Amy Pyfer, Legal Counsel for Child Support Enforcement Division, explained that the automated data matches only applied to financial institutions. Section 44 amends 40-5-206 and under existing law that would include state, local, and county governments having to provide information. Federal law included the language "other entities maintaining customer databases." Section 44 would allow them to ask for the information.

SEN. DOHERTY asked how the new hire would work regarding temporary employees?

Ms. Wellbank explained the employer would be the temporary personnel service. The employer who fills out a W-4 is required to meet the new hire reporting.

SEN. DOHERTY asked how this related to tribal courts?

Ms. Wellbank stated the bill does not impact that area. They can currently enforce tribal orders as long as the assets are off the reservation.

SEN. HOLDEN, referring to page 27, asked what the legal custody language encompassed?

Ms. Wellbank explained that this allows child support to follow the child.

SEN. HOLDEN, referred to page 61, line 16, and asked for explanation of same.

Ms. Wellbank stated this would clarify that there could not be a paternity trial on blood testing cases. The federal act states this must be enacted even if it requires a constitutional change. Paternity and DNA is so acceptable that they do not want people to sway the jury by non-related matters such as how many people the woman had sexual relations with.

SEN. HOLDEN asked Ms. Wellbank to explain what they want to accomplish with recreational licenses?

Ms. Wellbank explained that they would have the authority to suspend the licenses which would go into a drawing. A biologist counts the herds to determine how many licenses can be issued and then there is a drawing. A license suspended after the drawing would mean that one less Montanan would have access to the drawing. These people will be identified one year in advance. If the delinquent parent had not made some arrangements to become current, his ability to enter into the drawing would be suspended.

{Tape: 2; Side: b; Approx. Time Count: 10:30; Comments: .}

SEN. HOLDEN asked for clarification of line 18, page 106 regarding social security numbers?

Ms. Wellbank stated this is the one controversial area which is not a mandatory requirement. They want social security numbers on applications for fishing and hunting licenses. This makes it easier for them to trace these people. They already request the drivers license which in most cases is a social security number.

SEN. GROSFIELD asked how the new hire would cover part-time help?

Ms. Wellbank clarified that anyone who is required to fill out a W-4 also meets this requirement.

SEN. HALLIGAN felt the new hire information might be handled on a 30 day basis to conform with other reporting deadlines.

Ms. Wellbank stated the 20-day requirement is spelled out in federal law.

SEN. HALLIGAN asked who paid for paternity tests if the alleged father is indigent?

Ms. Wellbank stated that the Department would pay. If there is a 95% possibility of paternity and the district court orders a second paternity test, it says he has to pay in advance for that test. This is about \$300.

SEN. HALLIGAN asked who would be getting immunity?

Ms. Pyfer explained there is immunity for everyone reporting information. This section deals with state government agency immunity. A two-thirds vote is necessary to provide government agencies immunity. There would still be immunity for everyone else.

SEN. GROSFIELD asked if there are other administrative proceedings where we say that an administrative order is as good as a district court order.

Ms. Wellbank believes the Department of Labor's orders are final.

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BRUCE D. CRIPPEN, on February 21, 1997, at 8:06 a.m., in the Senate Judiciary Chambers (Room 325) of the State Capitol, Helena, Montana.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Lorents Grosfield, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter L. McNutt (R)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Jody Bird, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: Sb 382, SB 383, posted
February 18, and SB 385,
posted February 20

Executive Action: SB 374, SB 382, SB 383, SB 385

EXECUTIVE ACTION ON SB 374

Amendments: sb037401a.avl (EXHIBIT #1)

SEN. STEVE DOHERTY asked Mary Ann Wellbank and Amy Pfeifer to explain the amendments. Amy Pfeifer. Amendments 1 and 10 were requested by the Department of Fish, Wildlife and Parks; amendment 2 is from DPHHS and makes language compatible to federal language on forms; amendment 3 pertains to new hire reporting penalty for each employee; amendment 4 corrects an omission; amendment 5 provides for an automated data match with financial institutions; amendment 6 pertains to withholding from

retirement systems; amendment 7 addresses SEN. DOHERTY's concerns; amendment 8 corrects a typographical error; amendment 9 is a clarification requested by the Department of Fish, Wildlife, and Parks. (EXHIBITS #a, #b, #c, and #d from Mary Ann Wellbank, DPHHS)

Motion/Vote: SEN. DOHERTY MOVED SB 374 BE AMENDED-sb037401.av1.
THE MOTION CARRIED UNANIMOUSLY.

Motion: VICE CHAIRMAN LORENTS GROSFIELD MOVED TO FURTHER AMEND SB 374 - sb37403.av1 (EXHIBIT #2).

Discussion: VICE CHAIRMAN GROSFIELD. I understand the need for this bill, but it is the most intrusive bill I've ever seen, and that scares me. I don't see how Congress passed this. I also have several other ideas for amendments that are not on paper yet. These amendments would: amendment 1 lowers the fine to \$3 per employee; 2 addresses an issue similar to 1; and 3 de-earmarks funds to the State General Fund. Regarding amendments 4) and 5) - it is not good public policy for fines to go to specific funds in agencies. On page 16, I would strike lines 21-22, Subsection (b). This is an untenable position to ask an employer to be in. Regarding amendments 6) and 7) - the Department of Public Health and Human Services (DPHHS) wanted liability protection, but I don't believe we need this. In fact they will be more careful if they don't have this protection.

SEN. DOHERTY. If we drop the fines would we be in the same position as we were with the Montana Highway Patrol where it costs more to write a ticket and process it than the fine is? I do agree, however, with the general thrust of the amendment.

VICE CHAIRMAN GROSFIELD. You made a good point. I'm not sure what amount is right, but I don't want to let employers off the hook.

CHAIRMAN BRUCE CRIPPEN. We have several options: pass the bill as it is; kill it; hold it and make a revised bill; or make amendments and send it to the House with a request for an early hearing and a Free Conference Committee.

SEN. MIKE HALLIGAN. Could we get the Department to react immediately after the sponsor of the amendment makes the motion? Mary Ellen Wellbank. Amendments 1 and 2 are okay, amendment 3 pertains to state revenue in excess of the \$400,000 going to the general fund.

SEN. SUE BARTLETT. Has this money been reverting to the general fund? Mary Ellen Wellbank. Not this year, but last year it did. We have no general fund money in our budget now. Amendment 5 is UIFSA - direct income withholding to the employer (a copy was given to SEN. HALLIGAN). Amendments 6 and 7 are required under federal law and could be a problem.

SUBSTITUTE MOTION: CHAIRMAN CRIPPEN MADE A SUBSTITUTE MOTION TO ADOPT AMENDMENTS 1 AND 2 OF sb37403.av1. THE MOTION CARRIED UNANIMOUSLY.

CHAIRMAN CRIPPEN. We will eliminate amendment 3 from the proposed amendments.

MOTION: VICE CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENTS 4 AND 5.

SEN. SHARON ESTRADA. I believe it is difficult to collect child support, and I can't support this bill.

VOTE: SEN. GROSFIELD'S MOTION TO ADOPT AMENDMENTS 4 AND 5 CARRIED WITH ALL MEMBERS VOTING AYE EXCEPT SENATORS MCNUTT AND ESTRADA WHO VOTED NO.

{Tape: 1; Side: A; Approx. Time Count: #29.6;; Comments: 8:35 a.m..}

SEN. BARTLETT. I believe it is unlikely this bill will get a two-thirds vote, and so I prefer not to adopt amendments 3 and 4.

SEN. DOHERTY. I can't believe other personal, proprietary information could be given to the Department and that, if misused, we'll not hold DPHHS liable. I like SEN. GROSFIELD's amendment.

MOTION/VOTE: VICE CHAIRMAN GROSFIELD MOVED THAT AMENDMENTS 6 AND 7 BE ADOPTED. THE MOTION FAILED WITH ALL MEMBERS VOTING NO EXCEPT SENATORS GROSFIELD, BISHOP, HOLDEN, AND DOHERTY WHO VOTED AYE.

HEARING ON SB 385

Sponsor: SEN. BARRY 'SPOOK' STANG, SD 36, St. Regis

Proponents: Chris Person, Paradise

Opponents: None

Opening Statement by Sponsor: SEN. BARRY 'SPOOK' STANG, SD 36, St. Regis. SB 385 deals with father's rights and custody. Section 1, lines 18-19 are the main part of the bill.

Proponents' Testimony: Chris Person, Paradise. (EXHIBIT #3) This bill will eliminate \$700 in legal fees and make the role "volunteer" rather than legally protected, especially when the biological father has no interest in raising his child. This helps families and the child.

Dawn Person, Paradise (EXHIBIT #4). Informed fathers get 30 days longer than a mother to make a legal decision about a child at birth. Child custody and child support are two separate issues.

SEN. HOLDEN. I commend **SEN. HARP** for his efforts. It is important to take action at the state level, so I support the bill.

SEN. BISHOP. I agree in part with **SEN. DOHERTY**, but this bill should go to the Senate floor for debate and must go through "never, never land" (the House).

SEN. DOHERTY. For the record, the diminishment of standards and the attempt to prove in pleadings the details required, impairs Montanans' abilities to bring these actions. The necessary requirements are already in the law. These fraud requirements are not required for any other area in Montana. I don't believe plaintiff's attorneys bring these cases lightly, and I believe it's going to be rolled through.

SEN. ESTRADA. I agree with **SEN. DOHERTY**, and am concerned by the Majority Leader telling us not to do complex bills at the last minute, and then doing so himself. I have concerns and questions to be answered.

SEN. BISHOP. Let's do this. We're being paid to study this matter now.

SEN. DOHERTY. The securities industry knew about this federal act for over a year, so I don't understand the lateness of the LC number and the bill request. **CHAIRMAN CRIPPEN.** Obviously this was bi-partisan at the federal level, as both Senators Baucus and Burns supported it, even after the President vetoed it.

SEN. BISHOP. If the same criteria holds for other complex bills presented at the 11th hour, let's kill SB 374, too. I believe this bill deserves to go to the Senate.

Vote: **SEN. BISHOP'S MOTION THAT SB 382 DO PASS AS AMENDED CARRIED IN A ROLL CALL VOTE (6-4).**

THE COMMITTEE RECESSED AT 12 NOON AND RECONVENED AT 12:15 P.M.

EXECUTIVE ACTION ON SB 374

Amendments: sb037402.av1 (EXHIBIT #13)

Motion: **SEN. HOLDEN MOVED TO AMEND SB 374 - sb37402.av1.**

Discussion: **SEN. HOLDEN.** There are getting to be more and more social security numbers than names on more and more documents. **CHAIRMAN CRIPPEN.** Some people don't have social security numbers, as they are not required by law, but they are required to have a TIF.

SEN. HALLIGAN. If several people have the same name, this will be a problem, so I oppose the motion.

CHAIRMAN CRIPPEN. The Department of Fish, Wildlife and Parks felt we would have a problem. The Chief of Enforcement said about 500 people were disqualified, and their privileges were suspended. He said the Department tried to match dates of birth with names, but if these are not identical, there won't be a match. He said they also had two people with the same name, and the same date of birth who were not included in the drawing, and were really angry.

Vote: SEN. HOLDEN'S MOTION TO ADOPT THE AMENDMENTS FAILED WITH ALL MEMBERS VOTING NO EXCEPT SENATORS HOLDEN AND ESTRADA WHO VOTED AYE.

Motion: SEN. ESTRADA MOVED AMENDMENTS sb037404.avl BE ADOPTED (EXHIBIT #14).

Discussion: Valencia Lane. The Department had stricken the 30-day time-line in Sections 47 and 75, but they received a letter from Judge John Larson to reinsert the time-line. **Mary Ellen Wellbank.** This was stricken because of a January 2, 1997 decision of the Supreme Court. Federal audit standards require that we move cases within 45 days, and are not meant to be interpreted as a due process requirement, but the Supreme Court interpreted it as mandatory. Forty-five days, however, is too fast when we have motions and continuances. I am against even doing six months for good cause, as it puts the state at liability. In one case that is four years old, the custodial parent was barred from collecting \$75,000 in back child support from the non-custodial parent.

SEN. BARTLETT explained amendments sb037404.avl. **Valencia Lane.** This is addressed in Judge Larson's letter. **Mary Ellen Wellbank.** The twenty-days refers to amendments 2, 3 and 4. There are no federal standards for this.

SEN. HOLDEN. We are talking about due process, right? And the Department will be holding up people's lives while they consider what is to be done. **Mary Ellen Wellbank** read from the federal requirements.

SEN. HALLIGAN. No retroactivity is initiated in amendments 2, 3 and 4. Amendment 1 could possibly be retroactive. What if income withholding were delayed six months? Amendment 1 is establishment of an order; amendments 2, 3 and 4 are merely income withholding on existing debt.

Vote: SEN. ESTRADA'S MOTION THAT THESE AMENDMENTS BE ADOPTED CARRIED WITH ALL MEMBERS VOTING AYE EXCEPT SENATORS DOHERTY, BARTLETT, HALLIGAN, MCNUTT AND JABS.

Motion: VICE CHAIRMAN GROSFIELD MOVED TO ADOPT sb0237401.asf.

Discussion: VICE CHAIRMAN GROSFIELD. Amendment 1 strikes "minimum"; amendment 2 corrects language that was too wide open;

amendment 3 deals with adoption of rules; amendment 4 gives guidance; amendment 5 gives the Department rule-making authority, Sections 1-15. For example, if one had a reasonably friendly settlement, why should it have to go through the Department?

Valencia Lane. On page 2, the two references to Sections 1-11 should be changed to Sections 1-015.

SEN. BARTLETT. What is the reason for extension of time for seasonal or temporary 'employers' or 'employees' in Subsection (c)? **VICE CHAIRMAN GROSFIELD.** Subsection (b) really goes with 6 through 9 and Subsection (3) goes with 10 and 11. **Mary Ann Wellbank.** 1 through 5(a), (b) are fine. 5(c) and 6 are a problem as the time-line is very strict and seasonal employees are very difficult to catch. 5(d) is confusing as it is in the 1991 law, and in subsequent withholding it is required to go through DPHHS unless the judge determines otherwise. So, I don't believe this amendment is necessary, and it's also confusing. 5(e) is your decision, and 5(f) is okay.

{Tape: 2; Side: B; Approx. Time Count: #36.6; Comments: 12:47 p.m..}

Motion/Vote: VICE CHAIRMAN GROSFIELD AMENDED HIS MOTION TO ELIMINATE 5(c), 5(d), AND 5(e). THE MOTION CARRIED UNANIMOUSLY.

Discussion: VICE CHAIRMAN GROSFIELD. I will not offer amendments on 6-9.

Motion: VICE CHAIRMAN GROSFIELD MOVED TO STRIKE THE ENTIRE SUBSECTION(6) ON PAGE 12, LINES 27-29.

{Tape: 3; Side: A; Approx. Time Count: #40.4; Comments: 12:52 p.m..}

Discussion: Mary Ann Wellbank. The current section, as written, is permissive.

CHAIRMAN CRIPPEN. I have a problem with striking this out in that the problem is the employer's, not the employee's

Vote: VICE CHAIRMAN GROSFIELD'S MOTION CARRIED WITH ALL MEMBERS VOTING AYE EXCEPT SENATORS CRIPPEN, JABS AND MCNUTT WHO VOTED NO.

Motion: VICE CHAIRMAN GROSFIELD MOVED TO ADOPT 1, 2, AND 3 OF THE PROPOSED AMENDMENTS.

Discussion: Mary Ann Wellbank. Name, address, and social security number are required under federal law. Adding the date of birth is good, but I don't know if it is required. **VICE CHAIRMAN GROSFIELD.** I will forget about 1, 2 and 3. Amendments 4-10 go to the same issue. I don't want this information going to just any state or state agency without just as good a confidentiality measure. **CHAIRMAN CRIPPEN.** You don't find this

a safeguard? **Mary Ann Wellbank.** We could live with it, if you said U.S.C. 651 et seq, we would then be in compliance with federal regulation. We think the Department of Revenue would put this information under new hires, and use it for their own purposes, so you could add the Department of Revenue. How much someone owes and to whom is already public information. This case processing center only has information on support and not on case records, and no confidential information will be disclosed.

Motion/Vote: VICE CHAIRMAN GROSFIELD AMENDED HIS MOTION TO INCLUDE U.S.C. 651 ET SEQ AND KEEP THE CONFIDENTIALITY LINE, AND ADD TO SUBSECTION (4), "THE STATE DEPARTMENT OF REVENUE". THE MOTION CARRIED UNANIMOUSLY.

Motion: VICE CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENT 11.

Discussion: **Mary Ann Wellbank.** I think the banks are comfortable with the bill, and they didn't offer any amendments when it was drafted.

Vote: VICE CHAIRMAN GROSFIELD'S MOTION TO ADOPT AMENDMENT 11 CARRIED UNANIMOUSLY.

Motion: VICE CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENT 12.

Discussion: **Mary Ann Wellbank.** The Department is okay with this.

Vote: VICE CHAIRMAN GROSFIELD'S MOTION TO ADOPT AMENDMENT 12 CARRIED UNANIMOUSLY.

Discussion: **Mary Ann Wellbank.** The Department is okay with the intent of amendment 13, but you need to change "obligee" to "obligor".

Motion/Vote: VICE CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENT 13 FOR PURPOSES OF CLARIFICATION AND TO CHANGE "OBLIGEE" TO "OBLIGOR." THE MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. MIKE HALLIGAN MOVED SB 374 DO PASS AS AMENDED. THE MOTION CARRIED WITH ALL MEMBERS VOTING AYE EXCEPT SENATORS GROSFIELD, BARTLETT, AND DOHERTY WHO VOTED NO.